

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires:

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /
Ce document est filmé au taux de réduction indiqué ci-dessous.

10x		14x		18x		22x		26x		30x	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12x	16x	20x	24x	28x	32x						

REVISED STATUTES

RELATING TO

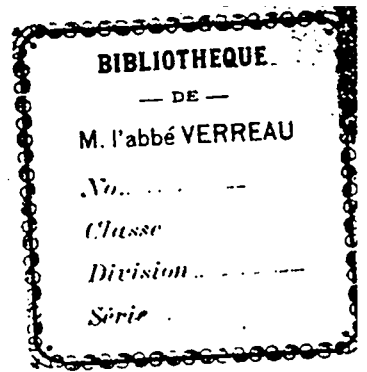
LOWER CANADA.

REAL PROPERTY.

CLASS E.

Relating to Real Property and Rights.

1. Lands in Free and common soccage, transmission and conveyance of.
2. Wills and Testaments.
3. Secret incumbrances. (Ratification of Title.)
4. Registration of titles, claims, &c.
5. Gaspé, titles to property in.
6. Letters patent for lands.
7. Lessors and lessees.
8. General abolition of Fendal Rights and Duties.
9. Commutation of Seignorial Tenure in certain Seignories.
10. Partition of Township Lands held in common.
11. Redress for trespass, and illegal detention of lands.
12. Lands of Indians.
13. Licitations.
14. Immoveables of unknown, or uncertain, owners.
15. Oppositions *à fin de charge* allowed for certain *rentes*.
16. Improvement of water courses.
17. LAW ÆDE REPEALED.
18. RETRAIT LIGNAGER ABOLISHED.
19. TITLES OF CERTAIN PERSONS NATURALIZED SECURED.



CAP. I.—OF LANDS HELD IN FREE AND COMMON SOCCAGE, THE TRANSMISSION AND CONVEYANCE THEREOF, &c.

1. The Act passed by the Legislative Council and Assembly of Lower Canada, in the ninth year of the Reign of King George the Fourth, and intituled: *An Act for rendering valid conveyances of lands and other immoveable property held in free and common soccage within the Province of Lower Canada, and for other purposes therein mentioned*, and the Royal assent whereto was signified by Proclamation in the said Province on the First day of September, one thousand eight hundred and thirty-one, is hereby declared to be and to have been since the passing thereof, that is to say, upon and after the day last aforesaid, in force in Lower Canada. (20. V. c. 45, s. 1.)

2. The word "Lands" in this Act shall include any immoveable property or hereditament capable of being held in free and common soccage, and any estate or interest therein; the word "Deed," shall include any instrument by which any lands can be conveyed, hypothecated or incumbered by the Laws of Lower Canada; and the word "Hypothecc" or "Charge," shall include the privilege of *baillieur de fonds* and all other privileged or hypothecary charges. (20 V. c. 45, s. 6.)

3. All grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, descents, devises, inheritance, right of dower, or other alienation or conveyance whatsoever, by or in virtue of which any person or persons whosoever are or shall be the proprietor or possessor of, or lay claim to be the proprietor and possessor of any lands or other immoveable property, granted in free and common soccage within Lower Canada, and which may have been made and executed prior to the First day of September, one thousand eight hundred and thirty-one, for the transfer, alienation, and conveyance of any such lands or other immoveable property, though not made and executed according to the rules and restrictions established by the law of England in reference to such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, descents, devises, inheritance, right of dower or other conveyances, shall be and are hereby declared to be as valid in law, to all intents, as if they and each and every of them had been made and executed in conformity to such rules and restrictions as aforesaid, and that as fully as if the said rules and restrictions of the law of England had never been in force, or had not been declared to govern and affect the transfer, alienation and conveyance of lands or other immoveable property so held in free and common soccage,—provided such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, descents, devises, inheritance, right of dower or other conveyances, and each and every of them, respectively, were at the time of making and executing the same, sufficient to operate as such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, descents, devises, inheritance, right of dower or other conveyances, under any law or usage in force in Lower Canada at the time of making and executing the same. (9 G. 4, c. 77, s. 1.)

4. All grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, devises, or other conveyances of any

lands or other immoveable property, holden, in free and common soccage, within Lower Canada, and duly made and executed upon or after the said First day of September, one thousand eight hundred and thirty-one, either upon and under such rules and restrictions as are by the law of England established and in force in reference to such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, devises, or other conveyances, or by deed or instrument in writing, duly made and executed by and before two notaries public, or by and before one notary and two witnesses, according to the laws and usages of Lower Canada, shall be equally valid in law. (9 G. 4, c. 77, s. 2.)

5. All mortgages and *hypothèques*, and all privileged claims of *baillieur de fonds* created before the day last aforesaid, upon any lands or other immoveable property holden in free and common soccage in Lower Canada, and which were so made and created according to the forms, laws and usages of Lower Canada, affecting other lands not holden in free and common soccage, shall be held valid in law to all intents. (9 G. 4 c. 77, s. 3.)

6. All mortgages and *hypothèques*, and all privileged claims, created upon or after the day last aforesaid, upon any land or other immoveable property holden in free and common soccage, according to the forms, laws and usages of Lower Canada, shall be valid to all intents, provided that the lands so mortgaged or hypothecated, or upon which such privileged claim is so intended to be reserved, are specially set forth and described in the instrument creating or reserving the same, and not otherwise. (9 G. 4, c. 77, s. 4.)

7. Nothing in this Act shall be so construed as to prejudice in any manner whatsoever the rights of any persons by whom any real property has been sold, (*baillieur de fonds*) who shall always be allowed to demand and exercise their rights of preference of *hypothèque* and privileged claim upon the moneys which shall form the consideration of any sale or transfer of any land or hereditament, although no stipulation to that effect, or express mention of such right, be made in the deed of sale or transfer of such land or hereditament. (9 G. 4, c. 77, s. 5.)

8. In all cases where any proprietor of land granted or held in free and common soccage in Lower Canada, died before the said First day of September, one thousand eight hundred and thirty-one, without having partitioned the same, either by last will and testament or otherwise, the heirs of such proprietor shall be held to partition such land according to the old laws of Lower Canada, (that is to say, as if such land had been held by the tenure of *franc alevu roturier*, being that known to the said old laws which is most analogous to free and common soccage,) unless the said heirs should have agreed among themselves upon a different partition. (9 G. 4, c. 77, s. 6.)

9. In all cases where the proprietor of any land held in free and common soccage in Lower Canada, died intestate as to such lands, between the Thirty-first day of August, one thousand eight hundred and thirty-one, and the tenth day of June, one thousand eight hundred and fifty-seven, the husband, widow and heirs of such proprietor, shall have respectively the same rights in respect of such lands as if they had been held in *franc alevu roturier*,—unless they have agreed upon, assented to or confirmed a different disposition or partition thereof, or have acquiesced therein during one year and one day from the death of such proprietor, by having allowed the same or any possession or act founded thereon, to remain unquestioned by them in any competent Court during that time; And this section shall apply to and bind minors, absentees and married women, and as well the heirs and legal representatives of or persons claiming through the parties who shall have agreed upon, assented to, confirmed or acquiesced in such disposition or partition, as such parties themselves; Provided always, that whenever any person has *bonâ fide* purchased or obtained any hypothec or charge upon any such land for a valuable consideration from any person who claimed to be and was entitled thereto as heir of the former owner so dying intestate, either under the English Law referred to in the Act aforesaid, or under the Laws of Lower Canada applicable to lands held in *franc alevu roturier*, and has registered the Deed creating such charge, or operating such Conveyance, before the registration of any sale, conveyance or incumbrance of such lands by any other person claiming to be such heir, and before the day last aforesaid, or within six months next after the said day, but before registration by such other person, no person being at the date of such Deed in adverse possession of the lands as such heir or as claiming through any such heir, or having questioned the title of the vendor or grantor of the charge in any suit pending or deci-

ded in favor of the adverse claimant at the date of such Deed,— then as regards the conveyance, sale or charge operated or created by such Deed, the grantor or vendor therein mentioned shall be held to have been at the date thereof the person entitled to inherit the said lands from the proprietor so dying intestate as regards them ; And in like manner any devise of any such lands held in free and common soccage, by last will and testament made according to the forms prescribed by the law of England in force there at the time of making such devise, shall have the same force and effect as if made before two Notaries Public according to the laws of Lower Canada. (20 V. c. 45, s. 2.)

10. Provided always, that nothing in the two preceding sections of this chapter, shall affect any case pending on the said tenth day of June, one thousand eight hundred and fifty-seven, or any case in which there was then any actual and open possession under a title adverse to their provisions or those of the Act of Lower Canada, mentioned in the first section of this Act, but such cases shall be adjudged upon as if this Act had never been passed ; nor shall any thing in the said sections affect any case in which a judgment having authority of *chose jugée* has been given before the day last aforesaid. (20 V. c. 45, s. 3.)

11. The Laws which upon and since the day last aforesaid have applied to and governed and shall apply to and govern lands held in free and common soccage in Lower Canada, as well with regard to descent, inheritance, incumbrance, alienation, dower, and the rights of husbands and of married women, as with regard to all other incidents and matters whatsoever, shall be the same with those which apply to and govern lands held by the tenure of *franc aleu roturier*, in like manner, except only in so far as such Laws may have been expressly altered as regards lands held in free and common soccage, by the Act last mentioned, or any other Act of the Legislature of Lower Canada or of Canada ; and as regards the rights of married women and their representatives, this section shall apply to cases where the husband has died since the day last aforesaid, whatever be the date at which the marriage may have taken place ; but nothing herein contained shall prevent the effect of any marriage contract or settlement made either in the English or French form. (20 V. c. 45, s. 4)

12. The Laws which have governed lands held in Free and Common Soccage in Lower Canada, in matters other than alienation, descent and rights depending upon marriage, are hereby declared to have always been the same with those which governed lands held in *franc aleu roturier*, except in so far only as it may have been otherwise provided by any Act of the Legislature of Lower Canada, or of this Province ; but nothing in this section shall be construed as a declaration that such lands held in Free and Common Soccage have or have not at any time been governed by any other Law as regards alienation, descent or rights depending on marriage. (20 V. c. 45, s. 5.)

CAP. II.—OF WILLS AND TESTAMENTS.

1. Every person of sound intellect and of age, having the legal exercise of his or her rights, may devise or bequeath by last will and testament, whether the same be made by a husband or wife, in favor of each other, or in favor of one or more of their children, as the testator sees meet, or in favor of any other person or persons whatsoever, all and every their lands, goods or credits, whatever be the tenure of such lands, and whether they be *propres*, *acquets* or *conquets*, without reserve, restriction or limitation whatsoever; Provided always, that a husband or wife making such last will and testament, shall not devise or bequeath more than his or her part or share of their community, or other property and estate which he or she may hold, or thereby prejudice the rights of the survivor, or the customary or settled dower of the children: Provided also, that the said right of devising, as above specified and declared, shall not extend to a devise by will and testament, in favor of any corporation or other persons in mortmain, unless the said corporation or persons be, by law, entitled to accept thereof. (41 G. 3, c. 4, s. 1.)

2. The method followed at the time of the passing of the Act, 41 G. 3, c. 4, of proving last wills and testaments, made and executed according to the forms prescribed by the laws of England, before one or more of the judges of the courts of civil jurisdiction in Lower Canada, shall have the same effect, as if made and taken before a Court of Probate. (41 G. 3, c. 4, s. 2.)

CAP. III.—OF SECRET INCUMBRANCES ON LANDS—AND CONFIRMATION OF TITLES.

TO secure property and prevent the disturbances and evictions from secret incumbrances unknown to the purchasers of such property; to enable purchasers of real property to make such purchases with confidence and obtain a valid discharge after paying the price thereof; and on the other hand to enable the vendors of such immoveables, within a reasonable time, to receive the purchase money without danger to the purchaser:—

1. All proprietors of immoveables, whether the same be immoveables real or immoveables by fiction of law, having acquired the same by purchase, exchange, licitation, or other title of a nature to transfer property, who are desirous of discharging such immoveables from any hypothecs wherewith they have been incumbered immediately previous to and at the time they were purchased or acquired by such persons, may obtain a judgment of confirmation of their purchase or acquisition in the manner hereinafter mentioned; which said judgment of confirmation shall have the effect of discharging the privileges and hypothecs wherewith such immoveables were incumbered previous to and at the time of such purchase or acquisition as aforesaid, in respect of all, each and every of the creditors of the vendors or assignors, and of their predecessors, neglecting to make their opposition in the form and within the time hereinafter prescribed; and the purchasers or proprietors of such immoveables obtaining such judgment of confirmation, shall be and remain incommutable proprietors thereof, without being held or bound for the debts of the preceding proprietors of the same, in any manner whatsoever; but such judgment of confirmation shall not have the effect of giving to such purchasers or proprietors, in relation to the property, any other or greater real rights (*droits réels fonciers*;) or servitude than their vendors had; and the sole effect of such judgment of confirmation shall be the discharging of privileges and hypothecs, only. (9 G. 4, c. 20, s. 1.)

2. The purchaser or proprietor, before he shall be entitled to demand such judgment of confirmation, shall lodge at the office of the prothonotary of the Superior Court for the district wherein such immoveables lie, the title deed of purchase or acquisition thereof; and thereupon public notice thereof, under the signature of the prothonotary, shall be given three several times in the course of four months, in the *Canada Gazette* stating the date of the deed, the names and descriptions of the parties thereto, its operation or general character, a description of the immoveable, and who has been in the actual possession thereof during the three years next before such notification, and the day on which such judgment of confirmation will be applied for, thereby calling on all persons who may have, or claim to have, any privilege or hypothec under any title or by any means whatsoever, in or upon the immoveables in respect of which such judgment of confirmation is to be applied for, to signify in writing their oppositions, and file the same in the office of such prothonotary, eight days at the least before the day fixed for such application; and such notification shall be in the form or to the effect expressed in the schedule hereunto annexed, but with any additions or alterations which the nature of the case may require, and shall also be publicly and audibly read at the church door of the parish, township or place in which the immoveable is situate, at the issue or immediately after divine service in the forenoon, on the four Sundays next before the day on which such application is to be made as aforesaid; and such notice shall also be posted up at the door of such church on the first Sunday on which the same shall be so read; and where there is no church or other place of divine worship, such notice shall be so given at the most public place or places in the parish, township or place in which the immoveables are situate. (9 G. 4, c. 20, s. 2.)

3. In the case of immoveables by fiction of law, such proceedings and judgment of confirmation shall be obtained in the Superior Court sitting in term for the district where the vendor or assignor of such immoveables had his domicile for three years next preceding the sale to be so confirmed, or if his domicile during that period has been in more districts than one, then in that district in which he is actually domiciliated, giving the like public notice in the several districts where he may have been so domiciliated during any part of the said three years. (9 G. 4, c. 20, s. 5.)

4. When the deed of purchase, exchange or other title of a nature to transfer property, includes immoveables real, or ground rents (*rentes foncières*) situate within the limits of different districts, the judgment of confirmation shall be obtained in such districts, respectively, in default of which the purchasers or proprietors shall be liable to the hypothecs of the vendor

or assignor in relation to such immoveables as shall be within the limits of the district in which no such judgment has been obtained. (9 G. 4, c. 20, s. 6.)

5. Whenever any real property is situated partly in one District and partly in another, any proceeding for confirmation of title, may be commenced, prosecuted, allowed and carried into effect in one or the other of the Districts in which the real property in question may be partly situate at the option of the applicant, as if such real property were wholly situate in the District in which the applicant has chosen to commence his proceedings; nevertheless, in the case of purchase or other title of a nature to transfer property of fiefs or seigniories which extend into different districts, such proceedings and judgment of confirmation shall be obtained in the Superior Court sitting in term for the district in which the principal manor of such fief or seigniority lies. (9 G. 4, c. 20, s. 6, and 14, 15 V. c. 60, s. 2.)

6. Upon proof of the formalities hereinbefore prescribed having been observed, the Superior Court in term shall, on the summary petition of the purchaser or proprietor, pronounce a judgment confirming such title deed, which judgment shall have the effect hereinbefore mentioned. (9 G. 4, c. 2, s. 4.)

7. If no oppositions are filed, the judgment of confirmation shall be pronounced purely and simply; and in the case of oppositions, the same shall be mentioned and referred to in such judgment of confirmation, leaving the parties to enforce the same upon the proceeds of such sale in the ordinary course of law. (9 G. 4, c. 20, s. 12.)

8. All persons, bodies politic or corporate, ecclesiastical or civil, women subject to marital authority, minors, persons interdicted or absentees, having or claiming to have any privilege or hypothec, under any title whatsoever, in or upon the immoveables in respect of which such judgment of confirmation shall be applied for, shall file their oppositions, containing the usual election of domicile, with the prothonotary of the court in which such proceedings are had, within the period above limited, in order to preserve their privileges or hypothecs, in default of which such privileges or hypothecs shall be extinguished; but nothing herein shall diminish the liability of administrators, husbands, tutors or curators, for the consequences of any neglect in relation to the premises, or shall in any way affect substitutions; Provided always that the purchaser may discharge the privileges or hypothecs so preserved, by paying the price, purchase money or consideration fixed and established in the manner hereinbefore provided, to the creditors who shall be entitled to receive the same, or by depositing the amount thereof in the hands of the prothonotary of the court in which the proceedings are had, to be distributed according to law. (9 G. 4, c. 20, s. 7.)

9. Provided always, that nothing hereinbefore contained shall extend to take away, alter, or in any way affect the rights or hypothecs of women during marriage, upon the immoveables of their husbands, or of children upon the immoveables of their fathers in relation to dower not yet open, nor in any manner or way to affect substitutions. (9 G. 4, c. 20, s. 8.)

10. Provided also, that seigniors, and all persons, bodies politic, or corporate, ecclesiastical or civil, holding as proprietors, any fief or seignior, shall not be bound to file any opposition in relation to the *cens et rentes foncières* and other feudal and seigniorial rights and burthens upon the lands for which such proceedings shall be had as aforesaid, except only in relation to any arrears of *cens et rentes* or any *lods et ventes* or other feudal or seigniorial rights or dues accrued before such immoveables were so purchased, or otherwise acquired, for which they must file their oppositions as hereinbefore provided in respect of other creditors. (9 G. 4, c. 20, s. 9.)

11. During the said four months, any lawful creditor of the vendor or assignor, or of their predecessors, may appear at the office of the prothonotary, and there offer an increase in the price, purchase money or other consideration in the aforesaid title deed contained, and have the same received, provided such augmentation amounts to at least one tenth of the amount of such price, purchase money or other consideration; and in like manner, any other creditor of such vendor, or assignor, may, in like manner, outbid such creditor, provided each creditor out-bidding the previous creditor or creditors, offers an increase in price not less than one twentieth of the amount of the price, purchase money or other consideration in such deed of purchase or acquisition contained, and offers also to restore to the purchaser or proprietor his costs and lawful disbursements, for doing all which he shall give sufficient security to be received by one of the Justices of the Superior Court

for the district in which such immoveables lie, at the time of making such bid and in the usual and accustomed manner: for the purchaser or proprietor of such immoveables may nevertheless retain the same upon completing and making up the highest price and sum which has been lawfully bid for the same; and in default of any such creditors offering such increase in the price, purchase money or consideration within the delay and in the form aforesaid, the value of the immoveables shall be and remain definitively fixed at the price or sum in the said title deed contained. (9 G. 4, c. 20, s. 3.)

12. Amongst the opposing creditors, those who are privileged shall be first paid out of the price or purchase money of such immoveables; after them, the hypothecary creditors shall be collocated according to the order and rank of their hypothecs; and if there remain any further money, it shall be distributed amongst the chirographary opposing creditors, in preference to privileged or hypothecary creditors who have neglected to file oppositions. (9 G. 4, c. 20, s. 10.)

13. The following fees only shall be allowed:—To the prothonotary, for filing the deed, one shilling currency; for every opposition, six pence currency; for every necessary certificate, six pence currency; for every sentence or judgment, two shillings currency; for a copy thereof, one shilling currency:—To the bailiff, for posting up the advertisement, one shilling currency; for each publication thereof, one shilling currency; to him, for every league he shall travel in the country, one shilling and six pence currency; for his certificate, one shilling and six pence currency:—To the printer, for every ten lines of printing in both languages, five shillings currency for the first insertion, and one shilling and three pence currency for every subsequent insertion; and when such insertion shall exceed ten lines, then he shall be entitled to receive eight pence per line for the first insertion in both languages, and two pence per line for every subsequent insertion for his advertisement. (9 G. 4 c. 20, s. 11.)

14. Every Prothonotary shall give due attendance at his office every day in the week, Sundays and Holydays excepted, during the usual hours, for the dispatch of business relating to the purposes aforesaid; and every such Prothonotary, as often as required, shall make searches concerning all proceedings had as aforesaid, and deliver such extracts and certificates as are lawfully required; and if such Prothonotary shall be guilty of any neglect, misdemeanour or fraudulent practice whereby any of the foregoing provisions may be evaded, he shall pay the damages with full costs of suit to every person that shall be injured thereby, to be recovered by action in the Superior Court. (9 G. 4, c. 20, s. 13.)

15. All proceedings in the nature of voluntary *décrets*, are and shall remain abolished. (9 G. 4, c. 20, s. 14.)

SCHEDULE.

Public Notice is hereby given that there has been lodged in the office of the Prothonotary of the Superior Court, of and for the district of _____, a *Deed* made and executed before A. B. and colleague, Notaries Public, on the _____ day of _____ between C. D. of _____, of the one part; and E. F. of _____, of the other part; being a (*sale*) by the said C. D. to the said E. F., of (*a lot or parcel of land*) situate, &c., and possessed by _____ as proprietor for the three years now last past; and all persons who have or claim to have any privilege or hypothec under any title or by any means whatsoever in or upon the said (*lot of land*), immediately previous to and at the time the same were acquired by the said C. D., are hereby notified that application will be made to the said Court on _____, the _____ day of _____, for a judgment of confirmation, and they are hereby required to signify in writing their Oppositions, and file the same in the office of the said Prothonotary eight days at least before that day, in default of which they will be for ever precluded from the right of so doing.

CAP. IV.—OF THE REGISTRATION OF TITLES TO OR CHARGES
UPON REAL ESTATE.

FOR preventing losses from secret and fraudulent conveyances of or charges upon real estate, or from the uncertainty and insecurity of titles to such estate in Lower Canada :

1.—*Registration generally, and its effects.*

1. Every deed or instrument in writing, executed after the thirty-first day of December, in the year one thousand eight hundred and forty-one,—every will made by any person dying after the said day,—every judgment, judicial act or proceeding, recognizance, appointment of tutor or guardian to minors, or of a curator to any interdicted person,—and every privileged and hypothecary right, claim or charge, from whatever cause resulting, and whether produced by mere operation of law or otherwise,—entered into, made, acquired or obtained after the said day,—of or concerning, or whereby any land or real estate in Lower Canada is alienated, devised, hypothecated, charged or affected, may be registered, as hereinafter directed ;—And every such deed or instrument in writing, judgment, judicial act and proceeding, recognizance, privileged and hypothecary right and claim and charge, shall be inoperative, void and of no effect, against any subsequent *bonâ fide* purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for or upon valuable consideration, unless it has been registered before the registering of the memorial of the deed, instrument in writing, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, or incumbrance, under which such subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor, or incumbrancer, claims ;—And every such devise by will shall be inoperative, void, and of no effect, against any subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for or upon valuable consideration, unless such will be registered, as hereinafter prescribed ;—And every such appointment of a tutor to a minor or minors, and of a curator to a person or persons interdicted, shall be inoperative in conferring any hypothec or hypothecary right whatever, and shall be void and of no effect against any subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor, or incumbrancer, for or upon valuable consideration, unless such appointment of a tutor or curator shall have been registered, as herein prescribed. (4 V. c. 30, s. 1 part.)

Such registration may be made by memorial, or at full length, or by extract in the case of a Notarial Instrument, subject to the provisions hereinafter made. (*Present Acts passim.*)

2. Any Notarial obligation, contract, instrument in writing, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, in force on the said thirty-first day of December, one thousand eight hundred and forty-one, whereby any debt, sum of money, goods or chattels, were contracted, stipulated or secured, or were recovered or made, and were payable or deliverable, and whereby any real estate, was hypothecated, charged or incumbered, for the payment, satisfaction, or delivery thereof, might be registered on or at any time before the first day of November, one thousand eight hundred and forty-four ; and such registration on or before the said day, has had and shall have the effect of preserving such hypothec, privileged and hypothecary rights and claims, according to their respective rank and priority, in the same manner as if the Registration Ordinance, fourth Victoria, chapter thirty, had not been made ; but every such notarial obligation, contract, instrument in writing, judgment, recognizance, judicial act or proceeding, privileged or hypothecary right or claim, whereof a memorial was not registered on or before the day last mentioned, shall be and has been from the said day inoperative, void and of no effect whatever, against any subsequent *bonâ fide* purchaser, grantee, mortgagee, hypothecary, or privileged creditor or incumbrancer, for or upon valuable consideration. (4 V. c. 30, s. 4 part.)

3. Nothing in the next preceding section shall require the registration of the original grant, letters patent, conveyance or title by which lands were held, *en fief, à titre de cens, en franc aleu*, or in free and common soccage, on the said thirty-first day of December, one thousand eight hundred and forty-one, or of any rent, due, duty, or service, thereby stipulated or reserved by the seignior, original grantor, or lord of the fee. (4 V. c. 30, s. 4 part.)

4. The documents, instruments in writing, acts and things mentioned in the first section of this chapter, or required to be registered, as well those passed before Notaries as those passed before witnesses, and judgments, judicial acts and proceedings and other matters of record, may be registered, by transcribing the same at full length into the proper Books of Registration, in the proper Registry Office ; and the certificate of the Regis-

trar, on any such document, instrument in writing, act or thing registered at full length, shall be evidence of such Registry; Provided, that if such document, instrument in writing, act or thing to be registered at full length, be passed before Notaries, or be a judicial act or proceeding, or any matter of record, the production to the Registrar of a notarial copy thereof, or of a copy thereof certified by the proper officer, shall be sufficient to oblige such Registrar to register the same, without requisition in writing from any of the parties thereto. (7 V. c. 22, s. 5.)

5. Registration may be made by extracts from Notarial Instruments made as provided by the tenth section of the Act for the organization of the Notarial Profession passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, chaptered thirty-nine; and such registration shall have the same effect, as regards the contents of such extract only, as the registration of such instrument at full length: the fee of the Registrar for the certificate on such extract shall be one shilling and six pence currency. (19, 20 V. c. 15, s. 2.)

6. The Registration of any document, instrument in writing, act or thing shall avail to preserve the rights of all parties interested therein. (7 V. c. 22, s. 6.)

7. No notice or knowledge of any prior unregistered sale, grant, mortgage, hypothec, privilege or incumbrance, of or upon any real estate, subject to registration, given to or possessed by any party to whom or in whose favour any subsequent sale, grant, hypothec, privilege or charge of or upon the same land or any part thereof, duly registered, has been made or created, shall in any wise affect any right, title, claim or interest whatever, so derived to and vested in any such subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for valuable consideration. (4 V. c. 30, s. 1 part.)

8. Registration of any title to, or instrument creating any charge, incumbrance, or servitude upon, any immoveable property, posterior to the title of any party in open and public possession of such property as proprietor, shall not affect the title or rights of such party, although the title of such party be not registered until after the registration of such posterior title or instrument. (8 V. c. 27, s. 7.)

9. The registration of any deed, conveyance or will, whereby an estate of inheritance, or in freehold is passed, shall not prejudice any grantee or purchaser, for valuable consideration, or devisee, whose title is derived from a different grantor, vendor, or testator, but shall have effect only between and in respect of grantees, purchasers and persons whose title is derived from the same grantor, vendor, or testator. (4 V. c. 30, s. 3.)

10. The registration of hypothecs and hypothecary rights and claims, made within the ten-days next before the bankruptcy of the debtor, shall give no priority to the registering creditor over other creditors, or produce any effect whatever. (4 V. c. 30, s. 18.)

11. It shall not be necessary to register any claim for arrears of *cens* due to the seignior, or for seigniorial dues, servitudes, or rights, (legal or conventional,) or for arrears of *rentes foncières* for not exceeding seven years, or for the expenses of affixing seals for safe custody, or of making any inventory when required by law, or for costs of suit incurred for the common benefit of creditors, or for funeral expenses and those of the last sickness, or for servants' wages for not exceeding two years; and such debts shall not require registration to preserve any hypothec or privilege attached to them. (4 V. c. 30, s. 2.)

11½. The *baillieur de fonds* shall register the deed creating his right as such, in the manner prescribed with respect to the registering of hypothecary claims, within thirty days from the date of the passing of such deed, and failing so to do, such right of *baillieur de fonds* shall be of no effect with respect to any subsequent purchaser, donee or hypothecary, privileged or judgment creditor, for valuable consideration; but until the expiration of the said thirty days, such privilege of *baillieur de fonds* shall not be affected by the nonregistration thereof: Provided always, that nothing in this section shall be construed to affect judgments of the Civil Courts in Lower Canada which have decided that the *baillieur de fonds* was not bound to register the deed establishing his right of *baillieur de fonds*. (16 V. c. 206, ss. 4, 5, 6.)

12. The provisions of this Chapter, shall not extend to leases for a shorter period than nine years. (4 V. c. 30, s. 17.)

2.—Registry Offices.

13. The present Registry Office for any place shall continue to be the Registry Office for such place until some other shall, under this chapter, become the Registry Office thereof, and the present Registrars shall continue in office, subject always to the exceptions hereinafter contained. (*Present Acts passim.*)

14. Any Registrar having the legal custody of the books in which any document is registered, or of any official transcript of such books, or of the portion thereof containing the registration of such document, shall have full power to grant certificates and to do all other things relative to such registration, although it may have been originally effected in some other Registry Office. (16.)

15. Subject to the provisions hereinafter made, there shall be in each Electoral County in Lower Canada, at such place as the Governor has appointed or shall appoint, a Public Office for the registering of all deeds, wills, conveyances, notarial obligations, contracts and instruments in writing, and all other acts and writings whatsoever, in any manner affecting real estate, situate within such Counties respectively; and the Governor may, from time to time, appoint a fit person to be Registrar of each of the said Counties respectively, by whom the said office shall be kept and the duties of Registrar performed. (7 V. c. 22, s. 2, as amended by subsequent Acts)

16. All the books, records, indexes, documents and papers appertaining to the County Registry Offices, established under the several Acts of the late Province of Lower Canada, in the Counties of Drummond, Sherbrooke, Stanstead, Shefford and Missisquoi, and also in the Counties of the Two Mountains, Beauharnois, Ottawa, Megantic and Acadie, which were, by the Ordinance 4 Vic. c. 30, required to be transmitted to the Registry Offices in the several Municipal or Registration Districts in which the Registry Offices for the said Counties respectively were situate, shall be returned into, or if returned, shall remain in, the Registry Offices of the respective Counties where the Real Estate to which they relate lies, and shall make part of the records of such Registry Offices; and the Registrars in whose custody they shall be, shall have the same powers and duties with regard to them, and may grant certificates concerning them, as if originally registered in such office. 7 V. c. 22, s. 3, as amended.

17. All the memorials, books, records, indexes, documents and papers, made under the provisions of the said Ordinance 4 Vic. c. 30, shall remain in and form part of the records and papers of the Registry Offices for the Counties within which the Registry Offices in which they now are shall have been respectively kept, subject to the exceptions and provisions hereinafter contained. (7 V. c. 22, s. 4, as amended, &c.)

18. So soon as the Municipal Council of any Electoral County now constituted shall have fixed the place at which its sittings shall be held, and shall have provided thereat a proper place for the County Registry Office, with a sufficient metal safe or fire-proof vault for the safe keeping of the books and papers thereof, the Warden of the County shall represent the same to the Governor, and upon the report of the Attorney or Solicitor General that the foregoing requirements have been complied with, the Governor shall, by Proclamation, declare the same, and such Electoral County shall be a County for Registration purposes. (18 V. c. 99, s. 1)

19. Upon and after the day named in such Proclamation, a Registry Office shall be kept in and for the said Electoral County at the place therein provided, in which Office the registration of all deeds, instruments and documents affecting real property situate within such Electoral County shall be made, and all other things provided for by this Chapter shall be done, except as otherwise hereinafter provided. (18 V. c. 99, s. 2.)

20. If there be already a Registry Office within such Electoral County, but it be not kept at the place so appointed, it shall, on and after the day so named be removed thereto and kept thereat, and shall thereafter be the Registry Office of such Electoral County, and the Registrar by whom it was theretofore kept, shall be the Registrar of such Electoral County, but subject to be removed from office as other Registrars; and if there be no Registry Office in such Electoral County, a Registrar shall be appointed therefor, and shall keep his Office at the place so appointed. (18 V. c. 99, s. 3.)

21. If there be in any territory forming a Registration County or Division on the 30th day of May, 1855, and the Registry Office for which shall become that of an Electoral County, any place not included in such Electoral County or in any other Electoral County having become a Registration County, such Registry Office shall nevertheless remain, as theretofore, the Registry Office for such place, until the Electoral County in which it lies shall become a Registration County under this Chapter. (18 V. c. 99, s. 4.)

22. If in any Electoral County becoming a Registration County there be more than one Registry Office, that one of them which shall be at or nearest to the place where the sittings of the Municipal Council of the County are held, shall be the Registry Office for such Electoral County, when it becomes a

Registration County, subject to removal to the place where the sittings of the said Council are held, if it be not already kept there; and any other Registry Office therein shall be removed to such place as the Governor shall direct in the Electoral County in which the greater part of the territory for which it remains the Registry Office shall lie, until such Electoral County shall become a Registration County under this Act, when it shall be kept at the place where the sittings of the Municipal Council thereof shall be held. (18 V. c. 99, s. 5.)

23. Notwithstanding any change made in the name or limits of any Registration Division, or the removal of the Registry Office thereof, the Registrar by whom such Registry Office shall be kept at the time of such change or removal, shall, without any new appointment, be the Registrar of the Registration Division of which such Office shall be the Registry Office, and any bond or security he may have given, as a Registrar, shall remain in force, and shall apply fully to his acts and defaults after and before such change or removal; but this shall not prevent the Governor from removing any such Registrar, or requiring any new security. (18 V. c. 99, s. 6.)

24. The Municipality of each Registration County or Division shall provide and keep constantly in repair, in the Registry Office of such County or Division, a proper metal safe or fire-proof vault, for the safe keeping of the books and papers of such Office; and for any failure so to do, such Municipality shall forfeit to the Crown fifty pounds currency, to be recovered as a debt due to the Crown; and the Municipality shall further be liable for all damages which may be sustained by any person by reason of such failure; and the Governor may appoint proper persons to inspect such Registry Offices, safes and vaults, from time to time; and if any Registry Office be found without such safe or vault, or the same be insufficient, he may direct the Municipality to be sued for the said penalty, and may cause a proper safe to be placed or a proper Vault to be erected in such Registry Office, or the Safe or Vault to be renewed or repaired, as the case may require, and the cost to be paid out of the Public Moneys; and the sum so paid shall be recovered from the Municipality as a debt due to the Crown; and if there be more than one Municipality in such Registration County or Division, such penalty or cost may be recovered from any one of them, saving the recourse thereof against the other or others; and such penalty or cost may be recovered from any Municipality of which the major part shall be within such Registration County or Division, saving the recourse of such Municipality against any other whereof any part may be within such Registration County or Division. (18 V. c. 99, s. 7.)

25. Whenever the Municipal Council of any Electoral County or locality which has become a Registration County or Division, has provided funds for paying the necessary expense, such Council may require any Registrar in whose office there is registered any deed, instrument or document affecting real property in such Registration County or Division to furnish the Registrar thereof with copies thereof and of all entries relative thereto, or of such abstract of such registered documents as may be desired, certified by such other Registrar and fairly transcribed in regular order in properly bound books to be furnished by the Municipality of such Registration County or Division which such other Registrar shall be bound to do, being paid therefor, at the rate of four pence currency for every hundred words, and the Registrar of such Registration County or Division shall thereafter grant copies of extracts from, or make searches and grant certificates, and perform all other official acts with respect to such deeds, instruments, documents or entries, as if the same had been originally registered and made in his Registry Office, and demand and take the like fees therefor; and such copies, extracts, certificates and acts shall *prima facie* avail as if granted and performed by the Registrar having the original books, entries and documents, saving the right of any party to prove error therein, and the recourse of all parties against such other Registrar if the error be in the copies furnished by him. (18 V. c. 99, s. 8.)

26. The Registrar having the original books in which any deed, instrument or document has been or might have been registered, may and shall grant copies thereof and extracts therefrom, and make searches and give certificates in respect thereof (on payment of the proper fees,) notwithstanding the place in which the real property to which the same relates is situate is no longer within the limits of that for which he is the Registrar, and notwithstanding he has furnished copies of such deeds, instruments or documents to some other Registrar under the next preceding Section, and with the same legal effect as if he were still the Registrar for the place in

which such real property is situate; and until such copies as are mentioned in the next preceding Section are furnished to the Registrar of the proper Registration division as therein provided, all documents evidencing the discharge of any hypothec or charge on any real property in such division, may be registered in the Registry Office in which the deed, instrument or document creating such hypothec, or charge was originally registered; but if such copies have been so furnished to the Registrar of the proper Registration division, then such discharge shall be registered in his Office. (18 V. c. 99, s. 9.)

27. Except as hereinafter provided, every County in Lower Canada mentioned and described in the Parliamentary Representation Act of 1853, as amended by the Parliamentary Representation Amendment Act of 1855, shall be an Electoral County for the purposes of this Act, with the boundaries assigned to it by the said Act or Acts. (18 V. c. 99, s. 10.)

28. Provided always, that for the purposes of this chapter,—

1. The Magdalen Islands in the Gulf of St. Lawrence, shall not be held to be within the County of Gaspé; and the settlements of Ste. Anne des Monts and Cap-Chat as they are now bounded as a separate Municipality, shall not be held to be within the County of Gaspé.

2. The City of Quebec and the Electoral County of Quebec shall form one Registration Division, shall be dealt with as one Registration County, and shall be known as the Registration Division of Quebec; and the Registry Office for the said Division shall be at the City of Quebec;

3. The City of Montreal and the Electoral Counties of Jacques Cartier and Hochelaga shall form one Registration Division, shall be dealt with as one Registration County, and shall be known as the Registration Division of Montreal; and the Registry Office for the said Division shall be kept at the City of Montreal;

4. The City of Three-Rivers and the Electoral County of St. Maurice shall form one Registration Division, shall be dealt with as one Registration County, and shall be known as the Registration Division of Three-Rivers; and the Registry Office for the said Division shall be at the Town of Three-Rivers;

5. The Town of Sherbrooke as described in the said Parliamentary Representation Act of 1853, including the Townships of Ascot and Orford, shall with the Township of Compton form one Registration Division, shall be dealt with as one Registration County, and shall be known as the Registration Division of Sherbrooke; and the Registry Office of the said Division shall be at the Town of Sherbrooke;

5. The County of Compton shall not, for the purposes of this chapter, include the Township of Compton, and the remaining part of the said County shall, for the said purposes, be dealt with as an Electoral County;

7. The Island of Orleans shall, for the purposes of this Act, be dealt with as a separate Electoral County, and shall be known as the Registration Division of the Island of Orleans;

8. That part of the County of Montmorency which lies on the north Shore of the River St. Lawrence shall, for the purposes of this Act, be dealt with as a separate Electoral County, and shall be known as the Registration Division of the County of Montmorency;

9. The Magdalen Islands, in the Gulf of St. Lawrence shall, for the purposes of this chapter only, be considered and dealt with as if they formed an Electoral County and the Port of Amherst had been appointed the place for holding the sittings of the Municipal Council of the County; and for the purposes of this Act other than that of appointing the said place of sitting, the Municipal Council of the said Magdalen Islands shall be substituted for the County Council, with the same powers and obligations; and so soon as the Governor shall be satisfied that a proper Metal Safe or Vault has been provided by the said Municipal Council for the safe keeping of the books and papers of a Registry Office, a Proclamation may issue reciting the fact and declaring the said Magdalen Islands a Registration Division under this Act, and a Registrar may be appointed therefor, to keep his Office at the place so provided at the Port of Amherst aforesaid;

10. The settlements of Ste. Anne des Monts and Cap-Chat, bounded as aforesaid, shall for the purposes of this Act only, be considered and dealt with as if they formed an Electoral County, and the Village of Ste. Anne des Monts had been appointed the place for holding the Sittings of the Municipal Council thereof; and for the purposes of this Act other than that of appointing the said place of sitting, the Municipal Council of the said settlement shall be substituted for the County Council with the same powers and obligations; and so soon as the Governor shall be satisfied that a proper Metal Safe or Vault have been provided by the said Municipal Council for the safe keeping of the books and Papers of a Registry Office, a Proclamation may issue reciting the fact and declaring the said settlements a

Registration Division under this Act, and a Registrar may be appointed therefor to keep his Office at the Village of *Ste. Anne des Monts* aforesaid ;

11. The expression "Electoral County" or "Registration County," when used in this chapter as signifying a Registration Division, shall include and apply to any Registration Division under this chapter, whether formed of more than one County or of only part of a County, or otherwise ; and the Municipal Council or Councils of such Registration Division shall be held to be included when the Municipal Council of an Electoral or Registration County is mentioned, unless there is something in the context inconsistent with such interpretation ; and if in any case it be doubtful where the Registry Office of any Registration Division is to be kept, the Governor shall fix the place by the Proclamation establishing such Division. (18 V. c. 99, ss. 11, 12, .3.)

3. Registrars and their Deputies.

29. Each Registrar shall, within twenty days after he has taken the oath of office, appoint a deputy, and upon the death, resignation or removal of any Registrar, his Deputy shall execute the office of Registrar, until another person is appointed and takes upon himself the said office. (4 V. c. 30, s. 6.)

30. Any Deputy Registrar may resign, or be removed from office by his Principal, and in the event of his death, resignation or removal, such Principal shall appoint another Deputy within twenty days thereafter such resignation or removal. (12 V. c. 48, s. 3, part.)

31. If any Registrar neglects to appoint a Deputy Registrar as aforesaid, he shall forfeit five pounds, for each day during which such neglect continues ; which penalty may be recovered in any Court of Record, and one half thereof shall go and be paid to Her Majesty, and the other half to the informer. (12 V. c. 48, s. 3, part.)

32. It shall be the duty of the Sheriff of the district, or if there be no such Sheriff, then of the Warden of the County, in which any Registrar dies, to notify the death of such Registrar forthwith to the Secretary of the Province, for the information of the Governor, who shall, within one month after any such death, appoint a fit person to fill the vacancy. (4 V. c. 30, s. 7.)

Oaths of Office, and Security, Residence, &c.

33. Every Registrar or Deputy Registrar, before he enters upon his office, shall take and subscribe, before one of the Justices of the Court of Queen's Bench or of the Superior Court, the oath of allegiance and oath of office contained in the Schedule number one to this Chapter subjoined ; which oaths shall be written on parchment, and, after being sworn, shall be transmitted to the Clerk of the Peace for the District within the limits of which is situate the Office to which such Registrar or Deputy shall have been appointed, which Clerk shall file the same among the records of his Office, for which service he shall have from such Registrar or Deputy five shillings ; (4 V. c. 30, s. 8.)

2. Every such Registrar shall within one month after notice of appointment, if then within this Province, or within three months if he be then absent from the Province (unless he sooner arrive in the Province, and then within one month after such arrival), enter into a bond in duplicate to Her Majesty, with two or more, and not more than four, sureties, to be approved by the Governor, jointly and severally, in the following sums : (4, 5 V. c. 91, ss. 2. and 14.)

3. Every Registrar for any County or Registration Division, other than the Registration Divisions of Quebec, Montreal, Three-Rivers and Sherbrooke, in the penal sum of one thousand pounds ; the Registrars for the Registration Division of Quebec or of Montreal, in the penal sum of four thousand pounds ; the Registrars for the Registration Division of Three-Rivers or of Sherbrooke, in the penal sum of two thousand pounds : upon the condition contained in the Schedule number two to this Chapter subjoined ; (14, 15 V. c. 93 s. 2, and 19, 20 V. c. 102, s. 1.)

4. Such bond, written on parchment, shall be so entered into before one of the Justices of the Court of Queen's Bench, or of the Superior Court, and the Registrar shall cause one part of such duplicate bond to be recorded at full length at the Office of the Registrar of the Province, and shall forthwith after such registration deposit the same at the office of the Inspector General of Public Provincial Accounts ; 4, 5 V. c. 91, s. 3.

5. The other part of such bond shall remain of record in the said Court of Queen's Bench, or Superior Court, and either part shall avail and be a security as well to Her Majesty as to all other persons who may be aggrieved by the breach of the said condition, and who shall recover judgment against any such Registrar, or his representatives, by reason of any misconduct or default of such Registrar, or his Deputy. 4 V. c. 30, s. 8.

34. Every Registrar shall reside within five leagues of his Office : Provided, that this provision shall not apply to the Registrar of the County of Megantic, Division No. 2. (14, 15 V. c. 93, s. 3.)

35. If within three years after the death, resignation or removal of any Registrar, no misconduct appears to have been committed by him, or his deputy, the recognizance entered into by such Registrar, shall, after that period, be void. (4 V. c. 30, s. 9.)

4. Registration by Memorial how effected.

36. When Registration is made by memorial, the memorial shall be in writing, attested by two witnesses, and executed by and registered at the instance of any person having interest, direct or indirect, therein, or by the debtor or party charged with the incumbrance to be registered. (4 V. c. 30, s. 10, *part. as amended by 8 V. c. 27.*)

37. The memorial of a deed, conveyance, contract in writing, or will, must express the day, month and year of the date thereof, and the names, abode and additions of the parties thereto, and the name of the testator of such will, and of all the witnesses to such deed, conveyance, contract in writing, or will, and their abode, or the name of the notary before whom the same was executed, having custody of the original, and must describe the real estate conveyed, devised, charged or affected according to the description therein contained, in such deed, conveyance, contract in writing, or will, or to the same effect, and also the nature and general character of such deed, conveyance, contract in writing, or will ;

2. The memorial of a notarial obligation, must specify the date thereof, and the name of the notary before whom the same was executed, having the custody of the original, and the names, abode and additions of the obligor and obligee therein named, and for what sum of money the same is made ; and must describe the real estate, hypothecated, charged or affected by such notarial obligation, according to the description contained in such notarial obligation, or to the same effect ;

3. The memorial of a judgment, judicial act or proceeding, recognizance, or privileged right or claim, must express, in case of such judgment, judicial act or proceeding, the names, abode and additions of the parties, the sum of money thereby recovered, and the time of the recovering of such judgment, or of the completion of such judicial act or proceeding ; and in the case of a recognizance, the date thereof, the names, abode and additions of the cognizers and cognizees therein, and for what sum of money, and before whom the same was acknowledged, and a description of the real estate charged or affected by such recognizance ; and in case of privileged and hypothecary rights and claims, the names, abode and additions of the creditors and debtors respectively, the amount of the debt, the nature and general purpose of the written security or document, evidence of the privilege or hypothec, and a description of the lands and tenements charged or affected with such privilege or hypothec, and the date of such within security ;

4. The memorial of the appointment of a tutor to minors, and of a curator to persons interdicted, must express the name, abode and addition of the tutor or curator, and the names of each of the minors, or interdicted persons, and the name and description of the judge under whose authority such appointment has been made, and must also express whether such memorial is to be registered, in respect of all the real estate of such tutor or curator, or of a part only, and if a part, of what part ; and if such memorial be made by any other person than the tutor or curator himself, it must also express the name, place of abode, and addition of the person by whom it is made. (4 V. c. 30, s. 10, *remaining part.*)

38. The signature to any memorial may be written by any person when the person requiring the registration of such memorial does not know how to write, provided his name be accompanied by his ordinary mark, which he must make in the presence of the witnesses to the memorial. (19 20 V. c. 15, s. 4.)

39. For the registration of memorials, every memorial executed in the manner required, shall be delivered to the Registrar or his deputy, at the Registry Office, for the County or Registration Division in which the real estate affected by the Deed, Act, or Will whereof registration is required is situate, and shall be acknowledged by the persons by whom the same has been executed, or one of them, or shall be proved by one of the witnesses to the execution thereof, on oath before the said Registrar or his deputy, or before any Notary Public or Justice of the Peace in Lower Canada, or before any Commissioner for taking affidavits to be used in the Superior Court ; and with every memorial there shall be produced to the Registrar, the deed, contract in writing, the will, or the probate or office copy of such will, the notarial obligation, instrument in writing, judgment, recognizance, appointment of a tutor or guardian or of a curator, judicial act or proceeding, privileged or hypothecary right or claim, of which the memorial is to be registered, or a notarial copy of any such document, if the original be in notarial form, and be in the custody of a notary, or an office copy of any such document or writing as proceeds from a court of justice, or the judge of any court ; And the said registrar or his deputy shall mark "Registered by

Memorial" on every such deed, conveyance, will, probate or office copy of a will, notarial obligation, instrument in writing, judgment, recognizance, appointment of a tutor or curator, judicial act or proceeding, privileged or hypothecary right or claim, or notarial or office copy thereof, and mention the day, hour and time at which such memorial is entered and registered, also, in what book and page, and under what number the same is entered; and the said registrar or his deputy shall certify the same, and for such certificate shall have one shilling and six pence; and all certificates, so given, shall be evidence of such registries, and all memorials shall remain of record in the hands of the registrar. (4 V. c. 30 s. 11.)

49. Any memorial executed at any place within Lower Canada, not being within the Registration division wherein the real estate therein mentioned lies, shall be registered on the delivery to the registrar of such division, of an affidavit sworn before one of the judges of the court of Queen's Bench, or of the Superior Court, or before any commissioner for taking affidavits to be used in the Superior Court, by which the execution of such memorial shall be proved by one of the witnesses to the same;

2. And any memorial executed in Great Britain or Ireland, or in any part of the colonies or possessions belonging to Her Majesty, shall be registered, upon delivery, to the registrar, of an affidavit sworn before the mayor or chief magistrate of any city, borough or town corporate in Great Britain or Ireland, or the chief justice or a judge of the Supreme Court of any such colony or possession, by which the execution of such memorial is proved by one of the witnesses to the same;

3. And any memorial made in any foreign state, shall be registered upon delivery to the registrar, of an affidavit, sworn before any minister or *chargé d'affaires*, or any consul of Her Majesty, resident and accredited with such foreign state, by which the execution of such memorial is proved by one of the witnesses to the same. (4 V. c. 30, s. 12.)

41. Proof of the execution of any deed, will or probate thereof or memorial of the same in Upper Canada, may, for purposes of registration in Lower Canada, be made likewise before any Commissioner appointed under the Act nineteenth and twentieth Victoria, chapter eighty-eight. (19 20 V. c. 88, s. 2.)

42. Where there are more writings than one, for making any conveyance or security, which name or affect the same real estate, it shall be a sufficient memorial and register thereof, if the real estate, and the place wherein the same lies be only once named in the memorial, registry and certificates of any one of the instruments made for such conveyance or security, and that the dates of the rest of the said instruments relating to such conveyance or security, with the names and additions of the parties and witnesses, and their abodes, be only set down in the memorials, registries and certificates, with a reference to the instrument whereof the memorial is so registered, that expresses the parcels mentioned in all the said instruments. (4 V. c. 30, s. 13.)

43. All memorials of wills registered within six months after the death of the testator dying within this Province of Canada, or within three years after the death of any testator dying beyond the limits of the Province, shall be as valid against subsequent purchasers, grantees, judgments, judicial acts and proceedings, recognizances, privileged and hypothecary claims, as if the same had been registered immediately after the death of such testator;

2. And in case the devisee or person interested in the real estate devised by any such will, by reason of the concealment or suppression, or the contesting of such will, or other inevitable difficulty, without his willful neglect, is disabled from exhibiting a memorial for registry within the time hereinbefore limited, and a memorial is entered in the proper Registry Office, of such contestation or other impediment, within six months after the decease of such testator dying within the Province of Canada, or within three years next after the decease of such testator dying beyond the limits of the Province, then the registry of the memorial of such will, within the space of six months next after his or their attainment of such will or a probate thereof, or the removal of the impediment whereby he or they have been disabled or hindered from exhibiting such memorial, shall be a sufficient registry;

3. Provided nevertheless, that in case of any concealment or suppression of any will, no purchaser for valuable consideration shall be disturbed in his purchase, nor shall any plaintiff in any judgment, nor any hypothecary or privileged creditor, be defeated of his debt by any title made by such will, unless the will be actually registered within five years after the death of the testator. (4 V. c. 30, s. 14.)

5. Claims for Interest.

44. No creditor shall be entitled, by reason of the registration of a hypothec or privilege, to a preference before others, for more than two years' arrears of interest and the in-

terest for the current year, reckoning from the date of the document under which the same may arise, unless a memorial of his claim for arrears of interest to a specific amount, beyond the arrears of two years, has been separately registered as being due under such hypothec or privilege, nor unless such creditor, do, at the time of presenting such memorial to the Registrar, make oath before him that the said specific amount of interest remains due, or unless an affidavit to the same effect be sworn to before one of the Judges of the Court of Queen's Bench or Superior Court, and delivered with such memorial to the Registrar. (4 V. c. 30, s. 16 and 7 V. c. 22, s. 10.)

6. *Registrar's Books, and Records.*

45. The hypothec preserved by the registration of any claim to interest or arrears not preserved by the original registration, shall date only from the registration of such claim, and such claim may be registered without its being attested upon oath, when founded upon any authentic deed or document; and the interest and arrears above mentioned shall not include alimentary pensions, life rents, rent due for any property leased, interest on the price of any real property sold for a sum payable at any fixed term, arrears on any real estate sold for an irredeemable ground-rent, or for a perpetual but redeemable rent commonly called a *rente constituée*; and the registration of the creditors' title in any of these cases shall save his hypothec or privilege for five years' interest or arrears, and those for the then current year, reckoning from the date of the said title, but not for more. (7 V. c. 22, s. 10.)

46. Every register for registration under this chapter, shall, before the making of any entries, be authenticated by a *memorandum*, on the first page thereof, signed by the prothonotary of the Superior Court, in the district within which such register is to be used; by which *memorandum* shall be certified the purpose for which the register is intended, the number of leaves therein, and the day, month and year on which such *memorandum* is made; and such register shall also be authenticated by the numbering of each of the said leaves in words at full length, with the initial letters of the name of the said prothonotary subscribed thereto. (4 V. c. 3, s. 19.)

47. Every memorial entered in such register shall be numbered, and the day, month, year, and hour when every memorial is registered, shall be entered in the margin of the register; and the Registrar, shall file all memorials, and enter them consecutively, in the order in which they come to his hand, leaving no blank between the memorials so registered. (4 V. c. 30, s. 19.)

48. Every Registrar shall keep in his office an index, in a proper book, wherein he shall enter in alphabetical order, the names of the persons mentioned in the memorials, by and to whom any real estate therein mentioned has been alienated, hypothecated or charged, and by or against whom any judgment, (as mentioned in such memorials,) has been recovered, and by and against whom, (as also mentioned in such memorials,) any legal or tacit hypothec, or any privileged or hypothecary right or claim, is registered, with reference to the entries of the memorials as registered, of and concerning the real estate alienated, hypothecated or charged by and to such persons respectively, and the numbers of such entries, and the pages of the register containing such entries, and the name of the Parish, Township, Seignior, City, Town, Village or extra-parochial place where the said real estate is situate. (4 V. c. 30, s. 20, part.)

49. Every Registrar shall keep in his office an alphabetical list of all Parishes, Townships, Seignior, Cities, Towns, Villages, and extra-parochial places within the division for which he is Registrar, with references, under the respective heads of such local divisions, to all the entries of registered memorials relating to real estate comprised within such division respectively, and the numbers of such entries, and with a designation of the names of the parties mentioned in such entries, and of the estates to which the same may relate, so as to afford, by means of an Index to Estates, as far as may be practicable, a ready reference to every memorial. (4 V. c. 30, s. 20, part.)

50. Every such Registrar shall also keep a minute or day-book, in which shall be entered the year, month, day and hour, when any memorial shall be brought for registration, the names of the parties in such memorial, and of the person by whom such memorial shall be so brought, the nature of the instrument, right or claim, whereof registration is thereby required, and a general designation of the real estate intended to be affected by such memorial. (4 V. c. 30, s. 20, part.)

51. The Minute or Day-Book last mentioned, shall be authenticated in the manner required with regard to the registers, and the Registrar shall make the entries in the said Minute or Day-Book, in the numerical order of the documents delivered to him for registration, and shall state in each entry the number given to the document to which it relates; and shall give to any person requiring the same on delivering any document for registration, and without demanding any fee therefor, an acknowledgment

stating the number under which such delivery is entered in the said Minute or Day-Book. (19, 20 V. c. 15, s. 1.)

52. The Registrars of the Registration Division of Quebec and Montreal, may keep separate books and registers (authenticated as prescribed, for those in which memorials are to be registered,) for the registration at full length of—:

First. Bonds, recognizances and other securities and obligations in favor of the Crown, Wills and Testaments, and probates or office copies of Wills and Testaments.

Second. Marriage contracts and donations.

Third. Appointments of tutors and curators, judgments and judicial acts and proceedings.

Fourth. Deeds of alienation and conveyance (*titres translatifs de propriété*;) not being of any of the classes hereinbefore mentioned, including exchanges and leases for nine years, or upwards, and deeds of partition.

Fifth. Deeds, instruments and writings creating mortgages, privileges, hypothecs or charges, and not being of any of the classes hereinbefore mentioned.

Sixth. All other deeds, instruments and writings not being of any of the classes hereinbefore mentioned;

And the registration thereof at full length in such books respectively, shall be valid to all intents; and the registration of any deed, instrument or writing at full length in any book, except in that kept for the registration of memorials, shall not affect the validity of such registration, although the Registrar may have mistaken the class to which such deed, instrument or writing properly belongs. (12 V. c. 48, s. 2.)

53. Nothing herein contained shall affect the validity of any registration effected, or any certificate granted under the provisions of sections five and six of the Act 8 V. c. 27, for facilitating the registration of deeds, instruments and documents which required to be registered on or before the first day of November, 1844.

54. The Secretary of this Province, under such directions as he may receive from the Governor, shall provide for and transmit to each registry office on its being first established, a uniform set of books, to be used as a register, indexes, and minute or day-book; the cost shall be defrayed out of any unappropriated moneys in the hands of the Receiver General; and like books, when required afterwards, shall be provided by the Registrars, for their offices, at their own expense. (4 V. c. 30, s. 54.)

7. Registration of Hypothecs on property of Husbands, Tutors, Curators, &c., as such.

55. Married men, and the tutors of minors, and curators of interdicted persons, shall cause to be registered, by memorial thereof, or at full length, without delay, the hypothecs to which their real estate is subject in respect of their wives, and of such minors and interdicted persons, respectively;

And if any married man, tutor or curator, fails to cause such registration to be made, whereby any such hypothec becomes postponed to a subsequent registered hypothec, or consents to any subsequent hypothec or privilege on his real estate, without declaring in the instrument establishing such subsequent hypothec or privilege, that the same premises have already become subject to the hypothec of such married woman, minors or interdicted persons, and without the reservation of priority in favor of the hypothecs last mentioned, such married man, tutor or curator shall be held guilty of a misdemeanor and shall also be liable for all damages and costs sustained by the party injured, and shall be subject to execution against his person, and to be kept in prison until the damages and costs adjudged against him be paid. (4 V. c. 30, s. 21, *as amended*.)

56. Every subrogate (*subrogé*) tutor to a minor, shall ascertain that registration has been made by memorial, or at full length, of the hypothecs of such minor on the real estate of the said tutor, as required by this Act, and in default of such registration, shall procure the said hypothecs to be registered without delay; and if any subrogate tutor, fails to execute this duty, he shall be liable for all damages that may be sustained by the said minor. (4 V. c. 30, s. 22.)

57. If any married man, tutor, curator or subrogate tutor, fails to procure registration to be made as in this chapter prescribed, any relation or friend of any such married man, or of his wife, or of any such minor or interdicted person, or any such wife or minor, may cause such registration to be made. (4 V. c. 30, s. 23.)

58. No action shall be maintainable by any husband, or any cause of action derived from his contract of marriage, whereof the registration is required by this chapter, or by any tutor to a minor, or by any curator to a person interdicted, until after registration by memorial, or at full length, of such contract of marriage, or of the appointment of such tutor or curator. (4 V. c. 30, s. 24, *as amended*.)

59. Whenever a minor contracts marriage, the father, mother, tutor or guardian, of such minor, by and with whose consent the marriage is contracted, shall cause the hypothecs established by the contract of marriage of such minor to

be registered by memorial, or by registration at full length of the contract of marriage, and in default thereof, they shall be jointly and severally, liable for all damages sustained by such minor, by reason of such omission to register. (4 V. c. 30, s. 25, as amended.)

60. Any judge, by whom any appointment of a tutor or curator is made, by and with the advice and consent of the relations and friends assembled for the election of such tutor or curator, may restrict the hypothec resulting from such appointment, to certain specific real estate of such tutor or curator; in which case, all other real estate of such tutor or curator, shall be exonerated from such hypothec; and the tutor or curator or subrogate tutor, shall cause to be registered, hypothecs on such specified real estate only. (4 V. c. 30, s. 26.)

61. Where the hypothec resulting from the appointment of a tutor to minors, or of a curator to interdicted persons, has not been restricted as aforesaid, and where the general legal hypothec thereby established notoriously exceeds a sufficient security for the administration of such tutor or curator, the Judge in whom the power of appointing tutors or curators in such cases resides, by and with the consent of the subrogate tutor, and with the advice of the relations and friends of any such interdicted person, to be assembled for that purpose, may restrict the hypothec to such specific real estate as may afford full security to such minor, or interdicted person; and thereupon, and after the registration of such restricted hypothec, all other the real estate of any such tutor or curator shall be exonerated from hypothec by reason of the appointment of such tutor or curator. (4 V. c. 30, s. 27.)

8. Conventional hypothecs must be special, and certain in amount.

62. No general hypothec shall be stipulated in or result from any deed, contract or obligation in writing made after the Thirty-first day of December, one thousand eight hundred and forty-one; and no conventional hypothec, charge or incumbrance on real estate shall be constituted or acquired in or by any deed, contract, obligation in writing or act executed after the said day, unless the real estate intended to be hypothecated, charged or incumbered by such act or deed, contract or obligation in writing, be therein specially described; nor unless the sum of money intended to be secured by such hypothec, charge or incumbrance be, in the same act, deed, contract or obligation in writing, specified; and no such hypothec shall be constituted for any other purpose than for securing the payment of a sum of money specially mentioned as aforesaid; (4 V. c. 30, s. 28.)

2. Provided always, that the registration of donations *inter vivos* subject to life rents, payable in kind and appreciable in money, or to any charges and obligations appreciable in money, shall preserve to persons interested therein, all hypothecary claims, privileges and rights to the extent of the sum equivalent to the life rents, charges and obligations appreciable in money, stipulated in such donations, as if such life rents, charges and obligations were estimated in money in such donations at their value in money. (16 V. c. 206, s. 7.)

9. Legal Hypothecs limited.

63. No legal or tacit hypothec shall, for any cause, be constituted or subsist on real estate, except in the cases following, that is to say:

Upon the real estate of married men, to and in respect of their wives, for securing the restitution and payment of all dotal sums of money, claims and demands, which they have on their husbands, for or by reason of any succession or inheritance devolving upon and accruing to such married women, and of any donation made to them during their marriage, which hypothec shall be accounted from the respective periods at which such succession or inheritance so devolves and accrues, or such donation receives execution;

Upon the real estate of tutors or guardians to minors and curators to interdicted persons, to and in respect of such minors and interdicted persons, as a security for the due administration of such tutors and curators, and the payment of all money which they owe at the close of their administration;

Upon the lands and real estates of persons who have contracted any debt or liability to Her Majesty, for and in respect of which an hypothec is allowed by the laws of Lower Canada. (4 V. c. 30, s. 29.)

64. No hypothec shall be constituted by or derived from any judgment, judicial act or proceeding, on any real estate of the defendant or debtor against whom such judgment, judicial act or proceeding is rendered, made or had, other

than those whereof any such defendant or debtor is seized at the time of the rendering of such judgment, or the accomplishment and completion of such judicial act or proceeding; nor shall any hypothec be derived from any judgment, judicial act or proceeding, which does not award a specific sum of money, and such hypothec shall be for such sum only; except judgments containing an adjudication of interest or costs, which adjudication may be made without the express mention of the amount of interest or costs in the judgment, and shall nevertheless carry an hypothec. (4 V. c. 30, s. 30.)

10. *Registration of privileged claims.*

65. The privileged creditors whose claims shall be registered, shall be the following:

1. The vendor, upon and in respect of the real estate sold by him, for the recovery of the price thereof;

2. The person by whom the money to be applied to the purchase of real estate has been lent, provided it be ascertained by the instrument or writing evidencing the loan, that it was intended to be so applied, and by the acquittance of the vendor, that the payment of the price was made with the money so lent;

3. Co-heirs and co-partitioners, upon and in respect of the real estate of the succession, and real estate held by them as tenants in common, for the execution of the warranty incident to the partition, and for the difference and return in money (*soulte et retour*), to make up for the inequality of lots included in any such partition;

4. Architects, builders or other workmen employed in the building, re-building or repair of buildings, canals, or other erections or works; provided that by an *expert* named by any judge of the court of Queen's Bench, or of the Superior Court in the district within which the buildings or premises aforesaid are situate, there has been previously made a *procès-verbal*, establishing the state of the premises, in respect of the works about to be made; and provided also, that within six months after the completion of such works, the same have been accepted and received by an *expert*, in like manner named; and provided also, that the privilege in such cases shall in no instance extend beyond the value ascertained by such second *procès-verbal*, and shall be reducible to the amount of increased value given to the premises by such works, at the period of the alienation of the real estate on which the said works have been erected or made;

5. The lenders of money applied to the payment of the workmen, in such cases as last aforesaid, provided that such intended application of the money lent, be ascertained by the instrument or writing evidencing the loan, and it be ascertained by the acquittance of such workmen, that they were paid with the money so loaned. (4 V. c. 30, s. 31.)

66. In the cases hereinbefore mentioned, of partitions between co-heirs or co-partitioners, and also of sales by licitation at their instance, the privilege of such co-heirs or co-partitioners, for the difference or return in money as aforesaid, and of the price of the sale by licitation, shall be preserved from the period of the partition or of the sale by licitation, provided the same be registered within thirty days from those periods respectively, during which no *hypothec* shall be established or acquired on the estate charged with the pecuniary demands now mentioned, or either of them, to the prejudice of the creditor of such difference or return in money, or of such price.

In cases where the privilege of architects, builders and workmen, and the lenders of money applied to the payment of such workmen, obtains as aforesaid, the said privilege shall be from the registration of the first *procès-verbal*, establishing the state of the premises, provided the second *procès-verbal*, establishing the acceptance of the work, has been registered within thirty days from the date of such second *procès-verbal*.

And in case of creditors or legatees who demand, or are entitled to demand the separation of the estates of their deceased debtor, or deceased testator, from those of his heir or legal representative, the hypothec, rights and interest of such creditors and legatees, in and to the estates of every such debtor or testator, shall be preserved in their full force, provided such their rights be registered, in respect of each and every of the said estates, within six months after the death of the debtor or testator; and during the said period of six months, no hypothec shall be established by the heir or legal representative of such debtor or testator, on any such estate, or be acquired thereupon, to the prejudice of such creditors or legatees.

The privileged debts hereinbefore mentioned, not registered within the time aforesaid, shall, nevertheless, retain their hypothecary character, in respect of third persons, from the period at which they shall be registered. (4 V. c. 30, s. 32.)

11. Registration of donations, and of instruments creating substitutions.

67. Every donation *inter vivos* of goods and chattels, liable to insinuation, or of real estate property in Lower Canada, shall be held to be duly registered and *insinué*, provided it be registered by memorial or at full length in the Registry Office of the County, or Registration Division, in which the real estate thereby given may be situate,—or if no real estate be thereby given, then in the Registry Office in and for the County or Registration Division in which the Donor is described in such donation, as being resident at the time of the execution thereof; or if the real estate thereby given be situate in two or more Counties, or Registration Divisions, then in the Registry Office of each of such Counties, or Registration Divisions: Provided always, that in this latter case the registration of any such donation in the Registry Office or Offices in, of, and for any one or more of such Counties or Registration Divisions, shall be valid, so far as respects any real estate thereby given which may be situate in such County or Registration Division, although the same be null for want of registration, as to real estate situate in another County or Registration Division; but no such donation *inter vivos*, so *heretofore* or *hereafter* registered as aforesaid, shall be null for want of having been also registered at the place and in the manner required by the laws in force in Lower Canada at the time of the passing of the Ordinance, 4 Vict. c. 30: Provided, that nothing in this section shall prejudice the rights of third parties acquired before the time when its enactments became law. (14, 15 V. c. 93, s. 4.)

68. Registration of Acts, Donations and Wills containing substitutions, in the Registry Offices for the locality within the limits of which the real estate substituted is situate, (and in case of substitution created by Donation *à cause de mort*, if the domicile of the testator be within the limits of a Registration Division other than that in which the property substituted is situate, the additional registration in the Registry Office for the locality within the limits of which the domicile of the said Testator was situate,) shall be equivalent to insinuation in the Registers of the Courts accompanied by reading and publication in open Court. The delays for registration shall be the same as those established for insinuation and publication in Court, immediately before the passing of the Act 18 V. c. 101. (18 V. c. 101, s. 2.)

12.—Property of married Women, and Dower.

69. Sales or conveyances of real estate belonging to any married woman as *propre*, consented to by her either before or since the coming into force of the Registry Ordinance, shall avail and have effect as if the thirty-fourth section of the said Ordinance had never been law. (12 V. c. 48, s. 1.)

70. Any married woman, of the age of twenty-one years or upwards, may join with her husband in the sale, alienation, mortgage or hypothecation of real estate, held in free and common socage, or *en fief*, or *à titre de cens*, or *en franc aleu*, or under any other tenure, subject or liable to or for her legal or customary dower or prefix dower, and in any deed of such sale, alienation, mortgage or hypothecation, or in any separate deed, may release her dower and right to dower, in and upon the lands and real estate, so sold, alienated or mortgaged or hypothecated; and such release shall be a bar to any right or claim to dower of such married woman, in or upon any such premises; and no hypothec shall attach or subsist, on any other real estate of the husband, for any indemnity to or for such married woman, on account of such sale, alienation, hypothecation or mortgage, nor shall any right to such indemnity, or any recourse of any kind, vest in her heirs or representatives, by reason of any such release of dower. (4 V. c. 30, s. 35, as amended by 5 V. c. 27, ss. 3 & 4, and 16 V. c. 206, s. 9.)

71. No married woman shall become security or incur any liability otherwise than as *commune en biens* with her husband, for debts or obligations entered into by her husband before their marriage, or which may be entered into by her husband during their marriage; and all suretyships by any married woman, in violation of this enactment, shall be absolutely null. (4 V. c. 30, s. 36.)

72. The legal or customary dower, or the right to legal and customary dower, of the children of any marriage, shall be exercised exclusively upon and in respect of real estate subject to the dower of their mother, whereof their father was seized and possessed at his death, and upon and in respect of which the dower of their mother has not been by her barred during her marriage. (4 V. c. 30, s. 37.)

13.—*Conveyances and Mortgages of Soccage lands.*

73. A deed of bargain and sale of real estate held in free and common soccage, made, sealed and delivered before two witnesses, or made before one notary and two witnesses, or before two notaries, whereby the intention of the bargainor to sell, and of the bargainee to purchase, an estate of inheritance or freehold is manifest, shall be a valid conveyance for transferring and assuring to the bargainee, his heirs and assigns, not only the use of the same, but also the seizin, estate, freehold and possession of the bargainor, of and in all such real estate, without any livery of seizin or other formality whatsoever; and every such deed of bargain and sale may be in the form in the Schedule number three to this Act subjoined, or to the same effect, and shall be susceptible of all the covenants which might be introduced into a conveyance by feoffment, or lease and release. (1 V. c. 30, s. 38.)

74. For securing the payment of moneys upon real estate held in free and common soccage in any part of Lower Canada, or within the Counties of Missisquoi, Shefford, Stanstead, Sherbrooke and Drummond (as bounded at the time of the passing of the Act 7 V. c. 22), by the said tenure or any other, a simple acknowledgment of indebtedness, executed before two witnesses, whereby intention to hypothecate is manifest, shall be a valid hypothecation of the real estate therein described, of which the party hypothecating is at the time thereof seized as owner, and the said hypothecation shall give the party in whose favor it shall be made, the same claim and privilege as if executed before notaries according to the laws of Lower Canada; And the said hypothecation may be in the following or like words:

"I, R. M., of _____, hereby acknowledge myself to
 "be indebted to R. J., of _____, in the sum of
 "currency, payable (*here describe the terms of payment*), and for
 "securing the payment of the same, I hypothecate all that
 "(piece or lot of land) lying and being in the (*here describe the*
 "*property*), with all appurtenances thereon, or thereunto belong-
 "ing (*as the case may be*), unto the said R. J., his heirs and
 "assigns. In testimony whereof I have herunto set my hand
 "and seal, at _____, in the _____ of _____, on
 "the _____ day of _____, in the year _____,
 "A. B. [L.S.]

"Signed, sealed and delivered }
 "in the presence of }

"C. D.,

"G. H."

(7 V. c. 22, s. 11.)

75. In all deeds of bargain and sale made as aforesaid, whereby an estate of inheritance in fee simple is limited to the bargainee and his heirs, the words "grant, bargain and sell," shall express covenants to the bargainee, his heirs and assigns, from the bargainor, for himself, his heirs, executors, curators and administrators,—that the bargainor was, at the date of such deed, seized of the real estate granted, bargained and sold, as of an indefeasible estate in fee simple, free from all incumbrances (rents and services due to the lord of the fee only excepted), and for quiet enjoyment thereof, against the bargainor, his heirs and assigns, and all claiming under him, and also for further assurance thereof, to be made by the bargainor, his heirs and assigns, and all claiming under him, unless the same be restrained by particular words in such deed; and the bargainee, his heirs, executors, curators, administrators or assigns, may, in any action, assign a breach thereupon, as if such covenants were expressly inserted in such deed. (1 V. c. 30, s. 39.)

14.—*Registration at full length of deeds before witnesses and its effect.*

76. And for the better preservation of titles to real estate, executed before witnesses:

Any person having or claiming title to any real estate in Lower Canada, may register at full length the deeds, conveyances, wills or writings, executed before witnesses, by or under which such title is claimed, and the Registrars are hereby authorized to register such deeds, conveyances, wills and writings as shall be so brought to be registered, by engrossing them in books; and the said Registrars shall, in the margin of every such entry, mention the time of every such entry and registration, and shall sign a certificate on such deed, conveyance, will or writing, and shall safely keep the books wherein such entries and registrations shall be made, in their offices; and all copies of such entries and enrolments of such deeds, conveyances, wills and writings, so registered, certified by the said Registrars respectively, shall be sufficient evidence of such deeds, conveyances, wills and writings, so registered, if the originals be destroyed by fire or other accident. (4 V. c. 30, s. 40.)

77. When any deed, conveyance, will or writing is brought to the Registrar's Office to be registered at full length as aforesaid, one of the witnesses to the execution of such deed, conveyance or writing, or to the signing and publishing of such will, shall make oath before the said Registrar, that such deed, conveyance or writing was duly executed by the grantor, or that such will was signed by the testator. (4 V. c. 30, s. 41.)

78. Such deeds, conveyances, wills and writings, if executed or published in any place in this Province, not being within the Registration Division in which the lands therein mentioned lie, may be registered at full length, if an affidavit sworn before one of the Judges of the Court of Queen's Bench or Superior Court, or before any Commissioner for taking affidavits to be used in the Superior Court, be brought with such deed, conveyance, will or writing, to the Registrar, wherein one of the witnesses to the execution of such deed, conveyance or writing, or to the signing and publishing of such will, shall swear that he saw the said deed, conveyance or writing executed, or such will signed and published by the testator. (4 V. c. 30, s. 42.)

79. Such deeds, conveyances, wills and writings, if made and executed or published in any part of Great Britain or Ireland, or in any colony or possession belonging to Her Majesty, may be registered at full length by any Registrar, if a like affidavit, sworn before the Mayor or Chief Magistrate of any city, borough, or town corporate in Great Britain or Ireland, or the Chief Justice, or a Judge of the Supreme Court of any such colony or possession, is brought with such deed, conveyance, will or writing to the said Registrar; and such deeds, conveyances, wills and writings, if executed or published in any foreign state, may be registered at full length, if a like affidavit, sworn before any Minister Plenipotentiary, or Minister Extraordinary, or a *chargé d'affaires*, or any Consul of Her Majesty resident and accredited within such foreign state, is brought with such deed, conveyance, will or writing, to the Registrar. (4 V. c. 30, s. 43.)

80. Every such registration at full length, of such deeds, conveyances, wills, and writings, shall be adjudged to be the entry of a memorial thereof pursuant to this Chapter, and shall have the same effect upon the real estate therein mentioned, as if a memorial of such deed, conveyance, will or writing, had been registered in the same registry office; and the certificate on such deeds, conveyances, wills and writings, shall be evidence of such registration. (1 V. c. 30, s. 44.)

15. Entry of discharges,—valuation of hypothecs.

81. When any mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privilege and hypothecary right or claim is registered, if afterwards there be deposited with the Registrar a copy of any notarial act or of a judgment proving the total or partial discharge of such mortgage, privileged or hypothecary right or claim, or if a certificate be brought to the said Registrar, signed by the mortgagee, the creditor, the plaintiff, the cognizee, or the hypothecary or privileged creditor named in such judicial act or proceeding, privileged right or claim, their heirs, administrators, or assigns, and attested by two witnesses, whereby it appears that the money due on such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, has been paid in whole or part, which witnesses shall, upon their oath before any one of the judges of the court of Queen's Bench or Superior Court, or before the Registrar, prove such monies to be paid or in part paid, and that they saw such certificate signed by the party granting it,—then the registrar shall make an entry in the margin of the register, against the registry of such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged right or claim, that such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged right or claim, has been wholly or in part satisfied, according to such certificate. (4 V. c. 30, s. 45, amended by 7 V. c. 22.)

82. Memorials and certificates of discharge, may be in the forms in the schedule number four, hereunto subjoined, or in any other form by which the requirements of this Chapter may be fulfilled. (4 V. c. 30, s. 46.)

83. Any person having discharged or partly discharged any registered incumbrance, may demand from the Incumbrancer such a Notarial Act or certificate proving such discharge or partial discharge as can be validly registered, and shall have an action for the same if refused, and for all damages arising from such refusal; and by the judgment in such action the total or partial discharge of the incumbrance may be declared. (7 V. c. 22, s. 8.)

84. Whenever a person claiming to be creditor has registered against the property of his alleged debtor, any right, privilege or hypothec which he claims, and the Deed upon which the right, privilege or hypothec is based, does not legally confer such privilege or hypothec, or is invalid, or paid, or such privilege or hypothec has been removed by legal proceedings, and such creditor, having been duly required thereto, refuses to consent to the cancelling of the registration thereof against the property of such debtor, the latter may by action demand that the claim so registered be, either declared null and to confer no privilege or hypothec on the property of the plaintiff, or null and paid, or removed by legal proceedings, and that the registration relating thereto by cancelled in the registers; and upon proof of the allegations in the declaration, the Court shall grant the prayer of the plaintiff with costs against the defendant, as well those incurred in the action as to effect such cancellation; Provided always, that an authentic copy of the judgment ordering the cancellation shall be served in the usual manner upon the defendant at his domicile. (16 V. c. 206, s. 1.)

85. The Registrar in whose office such registration is made, upon production to him of an authentic copy of the judgment ordering the cancellation of the said registration, and a Certificate that the delay to appeal from the judgment has expired, shall proceed to the cancellation thereof in the manner provided for the cancellation of hypothecs discharged or paid, subject to the penalties imposed by this Chapter. (16 V. c. 206, s. 2.)

16. Fees to Registrars.

86. Every Registrar shall be allowed for the filing, entry and registration of every memorial to be registered, two shillings and six pence, in case the words therein do not exceed four hundred words, but if such memorial exceed four hundred words, then after the rate of six pence for every hundred words contained in such memorial, over and above the first four hundred words, and the like fees for the like number of words contained in every deed, conveyance, will and writing, registered at full length, and in every certificate or copy; and for every search in the said office, if the names of the parties to the deed or instrument to be searched for, be given, one shilling, and when the names are not given, two shillings. (4 V. c. 30, s. 48.)

17. Obligations of Registrars and how enforced,

87. Every Registrar shall give attendance at his office, every day in the week, excepting Sundays and holidays, between the hours of nine in the forenoon and three in the afternoon, for the despatch of business, and every such Registrar, shall make searches concerning any memorials, deeds, conveyances, wills and, writings registered, and give certificates concerning the same if required. (4 V. c. 30, s. 49.)

88. If any Registrar in the execution of office, commits or suffers to be committed any fraudulent practice, in the execution of the said office such Registrar shall forfeit his office, and pay treble damages, with costs of suit, to every person thereby injured, to be recovered by action in any Court of record. (4 V. c. 30, s. 50.)

89. Every Registrar shall comply with the requirements of this Chapter, under a penalty not exceeding ten pounds currency for every contravention of such requirements, without prejudice to damages payable to any party, which may be recovered as well as the penalty (with costs) before any Court having jurisdiction in civil matters to the amount, by the party aggrieved. (19, 20 V. c. 15, s. 3.)

18. Books and Records of Registrar to be delivered to his successor.

90. Whenever a Registrar ceases to be Registrar, in consequence of resignation or removal from office, and when any such Registrar dies, every such Registrar ceasing to hold the said office, and the heirs, executors, or legal representatives of every such Registrar dying, shall deliver to the successor of every such Registrar on his demand, all the books, memorials, and papers appertaining to the office; and in case the Registrar so resigning or removed from office, or the heirs, executors, or other legal representatives of any deceased Registrar, refuse or neglect to deliver to the successor of such Registrar, all such books, memorials, and papers, as aforesaid, they, and every of them so refusing or neglecting, shall be held guilty of a misdemeanor, and shall besides be liable to make satisfaction to the parties injured, for all damages and costs sustained by such refusal or neglect. (4 V. c. 30, s. 37.)

19. Inspection of Registry Offices.

91. The Governor by warrant under his hand and seal, when he deems it necessary, may require the attorney or solicitor general, or other law officer of the Crown, or some fit person to visit any of the registry offices, and to enquire into the condition of such offices, and the registers, books, indexes, memorials, documents and the papers therein, appertaining to such offices, respectively, and to ascertain whether the provisions of this Act be executed; of which visit a report in writing shall be made to the Governor, and laid before the Legislature at its then next Session. (4 V. c. 30, s. 55.)

20. Penalties for certain offences.

92. If any person at any time, forswears himself before any Registrar, Judge, Court, or person authorized to administer an oath in any of the cases hereinbefore mentioned, and is thereof lawfully convicted, he shall be guilty of felony, and upon conviction, shall be liable to be imprisoned at hard labor in any Penitentiary, for any term not less than four years nor more than ten. (4 V. c. 30, s. 51, *part.*, that part relating to forging being repealed, except as to offences committed before 1st January, 1845)

93. Any person knowing the existence of any unregistered prior sale, grant, mortgage, hypothec, privilege or incumbrance, of or upon any real estate, who fraudulently makes any subsequent sale of the same, or of any part thereof, shall be guilty of a misdemeanor, and be liable to imprisonment, not exceeding twelve calendar months, and to fine not exceeding five hundred pounds, current money of this Province. (4 V. c. 30, s. 1, *part*)

94. Whoever pretends to hypothecate any real estate to which he has no legal title, shall be guilty of misdemeanor, and being convicted, shall be imprisoned for a period not exceeding twelve calendar months, and to a fine not exceeding twenty-five pounds current money of this Province, and the proof of the ownership of the real estate, shall rest with the person so pretending to hypothecate the same. (16 V. c. 206, s. 8.)

21. *The Crown to be bound by this Chapter.*

95. This Chapter shall be binding on Her Majesty in all particulars; and where registration is effected for Her Majesty by memorial, such memorial may be executed by the Receiver General, or by any other person holding office under Her Majesty in this Province, and having in his custody or hands the title, deed, will, notarial obligation, judgment, instrument or writing, or a notarial or office copy thereof, or probate of such will, whereof a memorial is to be registered; and every memorial on behalf of Her Majesty, shall express the name, office and abode of the person by whom such memorial shall be executed, the name, abode, and addition of the person against whom such memorial is to be registered, the date and nature of the title, conveyance, instrument, written security, document or writing, to which such memorial shall relate, and the nature (and the amount if the amount be ascertained) of the debt, right, claim, demand or liability, in respect of which such memorial is to be registered. (4 V. c. 30, s. 52.)

22. *Registration under former Acts to remain valid.*

96. Every Registration effected under the former Acts of L. C. 10, 11 G. 4, c. 8—1 W. 4, c. 3—4 W. 4, c. 5—or any of them, shall remain valid, and every certificate of the Registration of any document under the said Acts or any of them, given by the Registrar having the custody of the Registrars in which such Registration was made or of an official copy thereof deposited in his office under any Act in that behalf, shall be evidence of such Registration.

SCHEDULES.

SCHEDULE NUMBER ONE.

Oaths to be taken by Registrars and Deputy Registrars.

ONE—OATH OF ALLEGIANCE.

I, A. B., do sincerely promise and swear, that I will be faithful, and bear true allegiance to Her Majesty, Queen Victoria: So help me God.

TWO—OATH OF OFFICE TO BE TAKEN BY REGISTRARS AND DEPUTY REGISTRARS.

I, A. B., Registrar (*or* Deputy Registrar, *as the case may be*), for the _____ of _____, do solemnly swear, that I will truly, honestly and faithfully perform and execute the office of Registrar (*or* Deputy Registrar) for the _____ of _____, and all and every the duties enjoined and required to be done and performed by me as such Registrar (*or* Deputy Registrar) by the law, so long as I shall continue in the said office; and that I have not given or promised, directly or indirectly, nor authorized any person to give or promise, any money, gratuity or reward whatsoever, for procuring or obtaining the said office for me: So help me God.

SCHEDULE NUMBER TWO.

Condition of recognizance to be entered into by Registrars.

Whereas the said A. B. hath been appointed Registrar for the _____ of _____: Now, the condition of this recognizance is such, that if the said A. B. do always well and truly, honestly and faithfully, execute the said office, and perform and fulfil all and every the said duties enjoined and required to be done and performed by him as such Registrar by law in all things, then this recognizance shall be void and of no effect; otherwise it shall be and remain in full force and virtue.

SCHEDULE NUMBER THREE.

Form of a deed of bargain and sale executed before witnesses.

This deed, made the _____ day of _____, &c., between A. B., of _____, &c., of the one part, and C. D., of _____, &c., of the other part, witnesseth: That, for and in consideration of the sum of _____ to the said A. B. in hand paid by the said C. D., at or before the execution of these presents, (the receipt whereof is hereby acknowledged by the said A. B.,) he, the said A. B., doth hereby grant, bargain, sell and confirm unto the said C. D., his heirs and assigns for ever, all that certain lot of land, &c. (*insert here a description of the property sold*): To have and to hold the said lot of land and premises hereinbefore granted, bargained and sold, or intended so to be, with their and every of their appurtenances, unto the said C. D., his heirs and assigns for ever. In witness, &c.

A. B. [L.S.]
C. D. [L.S.]

Signed, sealed and delivered
in the presence of
E. F.,
G. H.

SCHEDULE NUMBER FOUR.

Forms of memorials and certificates of discharge.

ONE—MEMORIAL OF A DEED OF BARGAIN AND SALE EXECUTED BEFORE WITNESSES.

A memorial to be registered of a deed of bargain and sale, bearing date the _____ day of _____, in the year of Our Lord _____, made between A. B., of _____, Esquire, of the one part, and C. D., of _____, &c., of the other part (*a full description of the parties to be inserted, as in the deed*), by which said deed the said A. B., for the considerations therein expressed, did grant, bargain, sell and confirm unto the said C. D., his heirs and assigns, all that, &c. (*insert a description of the property sold*): To hold to the said C. D., his heirs and assigns for ever: Which said deed is witnessed, &c. (*specify here the names of the witnesses to the execution of the deed*); and the said deed is required to be registered by the said C. D. As witness his hand, this _____ day of _____, &c.

C. D.

Signed in the presence of
J. K.
L. M.

TWO—MEMORIAL OF A DEED OF BARGAIN AND SALE, BY WAY OF MORTGAGE, BEFORE WITNESSES.

A memorial to be registered of a deed of bargain and sale, bearing date the _____ day of _____, in the year of Our Lord _____, made between A. B. of _____, &c., of the one part, and C. D. of _____, &c., of the other part, by which said deed, the said A. B., did grant, bargain, sell, and confirm unto the said C. D., his heirs and assigns, all that, &c., (*Here insert a description of the mortgaged premises*;) To hold to the said C. D., his heirs and assigns for ever; subject, nevertheless, to redemption, upon payment to the said C. D., his heirs, executors, curators, administrators, or assigns, of the sum of _____ pounds, and lawful interest, as in the said deed is expressed; which said deed is witnessed, (*Specify here the names of the witnesses as in form one*;) And the same deed is hereby required to be registered by the said C. D. As witness his hand, this _____ day of _____, &c.

C. D.

Signed in the presence of
E. F.
G. H.

THREE—MEMORIAL OF AN ONEROUS DEED OF GIFT INTER VIVOS.

A memorial to be registered of a notarial copy of a deed of gift *inter vivos*, bearing date at _____ day of _____ in the year of Our Lord _____ made between A. B. of _____, (and C. D., his wife by him in this behalf duly authorized,) of the one part, and E. F. of _____, &c., of the other part, (*A full description of the parties to be inserted, as in the deed*;) before G. H., public notary and witnesses, (*or, before J. K., and another, public notaries, as the case may be,*) by which said deed or gift, the said A. B. and C. D., his wife, did give, grant and confirm unto the said E. F., his heirs and assigns, all that, &c., (*Insert a description of the property conveyed by the deed of gift*: to hold

to the said E. F., his heirs and assigns for ever; subject, nevertheless to a certain life-rent, consisting of, &c., (*Here insert the particulars of which the life-rent is composed:*) which said life-rent is payable by the said E. F., to the said A. B. and C. D., his wife, each and every year during the term of their natural lives, as in the said deed of gift *inter vivos*, is expressed: And the said deed of gift is hereby required to be registered by (the said E. F.). As witness his hand, this day of
&c.

E. F.

dingS in the presence of

L. M.

N. P.

FOUR—MEMORIAL OF A WILL, OR OF A PROBATE, OR AN OFFICE COPY, OR A NOTARIAL COPY THEREOF.

A memorial to be registered of the probate (*or, of the original will, or an office or notarial copy, as the case may be,*) of the last will and testament of G. H., late of bearing date, &c., by which will the said testator did give and devise unto, &c. (*as in the will,*) to hold, &c.; which said will was executed by the said testator, in the presence of A. B. of, &c., C. D. of, &c., and E. F. of &c.: And the probate of the said will, (*or, the original, or an office or notarial copy, as the case may be,*) is hereby required to be registered by (O. P., one of the devisees therein named). As witness his hand, this
day of

O. P.

isigned in the presence of

R. S.

T. V.

FIVE—MEMORIAL OF A NOTARIAL OBLIGATION.

A memorial to be registered of a notarial copy of a notarial obligation (*or of the original, if it be the original,*) bearing date the day of , in the year of Our Lord , made and entered into by A. B. of , &c., before E. F., public notary and witnesses, (*or before G. H. and another, public notaries, if the case be so,*) whereby the said A. B. owned himself to be indebted to C. D. of , &c., in the sum of pounds, to be paid, &c.,— and for securing the payment of the said sum of money and interest, hypothecated all that, &c., (*Insert the description of the hypothecated premises, as contained in the notarial obligation:*) Which said notarial copy of the said notarial obligation is hereby required to be registered by the said C. D. As witness his hand, this day of , &c.

C. D.

Signed in the presence of

J. K.

L. M.

SIX—MEMORIAL OF THE APPOINTMENT OF A TUTOR TO MINORS FOR THE PRESERVATION OF THE LEGAL OR TACIT HYPOTHEC RESULTING FROM SUCH APPOINTMENT.

A memorial to be registered of the appointment of A. B. of, &c., (*Insert the place of abode and addition of the tutor;*) to be tutor to C. D., E. F., &c., minors under the age of twenty-one years, issue of the marriage of the late G. H., (*the name of the father*) deceased, with the late J. K., (*the name of the mother,*) also deceased, which appointment was made by and under the authority of L. M., (*Insert the name and description of the Judge by whom the appointment has been made;*) at, &c., (*the place where the appointment was made,*) on the day of , in the year of our Lord : And the said appointment is hereby required to be registered, for the preservation of the legal or tacit hypothec resulting therefrom, on all the real estate of the said A. B.; situate in the of (*the name of the Registration county or division within which the registration is to be made,*) by N. O., of, &c., (*Insert the name and description of the person requiring the registration.*) As witness his hand, this day of , &c.

N. O.

Signed in the presence of

O. P.

R. S.

SEVEN—MEMORIAL OF A JUDGMENT.

A memorial to be registered of a judgment in Her Majesty's court of _____, of the term of _____, at _____, in the year of Our Lord _____, between A. B., of _____, &c., plaintiff, and C. D. of _____, &c., defendant for _____ pounds, with interest from, &c., and costs taxed at _____ pounds; which said judgment was rendered on the _____ day of the said month of _____, and is hereby required to be registered by (the said A. B.) As witness his hand, this _____ day of _____, &c.

A. B

Signed in the presence of

J. F.
T. P.

EIGHT—CERTIFICATE OF DISCHARGE FROM A JUDGMENT WHEREOF A MEMORIAL HAS BEEN REGISTERED.

To the Registrar of _____, I, A. B. of, &c., do hereby certify that C. D. of, &c., hath paid me the sum of money due upon a judgment recovered in Her Majesty's Court of _____ at _____ of the term of _____ in the year of Our Lord _____ by me the said A. B., against the said C. D., for _____ pounds, debt, and _____ pounds, costs, a memorial whereof was registered on the _____ day of _____ in the year of Our Lord _____; And I do hereby require an entry of such payment to be made, in the Register wherein the same is registered, pursuant to law. As witness my hand, this _____ day of _____ in the year of Our Lord, &c.

A. B.

Signed in the presence of

J. K. of _____, &c.
L. M. of _____, &c.

NINE—A CERTIFICATE TO DISCHARGE A MORTGAGE.

To the Registrar of _____, I, A. B. of, &c., (*the mortgagee in the deed or his heirs, executors, curators or administrators,*) do hereby certify that C. D. of &c., hath paid the sum of money due upon a deed or mortgage, bearing date the _____ day of _____ in the year of Our Lord _____ made between the said C. D., of the one part; and me the said A. B., of the other part; a memorial whereof was registered on the _____ day of _____ in the year of Our Lord _____; And I hereby require an entry of such payment to be made in the register wherein the same is registered, pursuant to law. As witness my hand, this _____ day of _____ in the year of Our Lord _____

A. B.

Signed in the presence of

O. P. of, &c.
R. S. of, &c.

TEN—A CERTIFICATE TO DISCHARGE A NOTARIAL OBLIGATION, AND EXTINGUISH THE HYPOTHEC THEREBY CONSTITUTED.

To the Registrar of _____, I, A. B. of &c., (*the hypothecary creditor, his heirs, executors, curators, or administrators,*) do hereby certify that C. D. of, &c., hath paid the sum of money due upon a notarial obligation, bearing date the _____ day of _____ in the year of Our Lord _____, made by the said C. D., to me and in my favor, as the obligee therein named, before E. F., public notary and witnesses, (*or before E. F. and another, public notaries, as the case may be*) whereof a memorial was registered on the _____ day of _____ in the year of Our Lord _____; And I do hereby require an entry of such payment to be made in the Register wherein the same is registered, pursuant to law. As witness my hand, this _____ day of _____ in the year of Our Lord _____

G. B.

Signed in the presence of

J. K. of &c.
L. M. of, &c.

WHEREAS it is expedient to render valid and to confirm the validity of certain informal acts or agreements in writing, and contracts of marriage, (*contrats de mariage*) *sous seing privé*, made and executed in the district of Gaspé, (in which no public notaries have at certain periods resided,) and by the parties, *bonâ fide*, intended to be binding and to affect their property and estate, real and personal: Therefore,

1. All deeds, wills, *actes* and instruments in writing *sous seing privé*, duly proved and registered under the Act of the Parliament of Lower Canada, 4 Geo. 4, cap. 15, and all copies thereof duly certified by the Officer having the custody of the Register containing the same, shall continue to have full effect as if such deeds, wills, *actes* and instruments had been passed before Notaries according and subject to the provisions of the said Act. (4 G. 4, c. 15, *generally*.)

2. Any person being a party, or representing by inheritance, succession or otherwise, any party to any will, act or agreement in writing, of any nature, inventory, *partage*, donation or contract of marriage (*contrat de mariage*) *sous seing privé*, made and executed, *bonâ fide*, before the ninth day of March, 1824, in the inferior district of Gaspé, and by which it may have been intended by the parties having signed the same, or having made their mark thereto, to bind and affect their property and estate real, at the time of the making thereof, on making oath to that effect before a Judge of the Superior Court in the district of Gaspé, upon petition to him presented to that effect, to cause the same to be entered at full length, and recorded in a book to be kept for the purpose by the officer having the custody of the records of the former Provincial Court for the inferior district of Gaspé, among the records of his office, such book being duly marked (*paraphé*) throughout on every leaf, with the initials of the christian and surname of the provincial judge of the said inferior district of Gaspé, or with those of a Judge of the Superior Court in the district of Gaspé. (4 G. 4, c. 15, s. 1.)

3. A certified copy from such book, under the hands of the prothonotary of the said provincial court, or of the officer having the custody of the records of the said Court, of the entry and record which shall be made in pursuance of this Act, of each and every such will, act or agreement in writing, inventory, *partage*, donation, or contract of marriage, (*contrat de mariage*) *sous seing privé*, shall be of the same force in every Court of law, as if the same were an authentic copy of any instrument to the like effect, executed before a notary. (4 G. 4, c. 15, s. 2.)

4. Before any such will, act or agreement in writing, inventory, *partage*, donation or contract of marriage, (*contrat de mariage*) *sous seing privé*, shall be entered and recorded as hereinabove mentioned, it shall be lawful for the Judge of the Superior Court to require the attendance of the several parties to the same, or in case the parties, or any of them, having executed the same are dead, of such witnesses as were present at the time of signing or executing the same, or in default of witnesses, or in case of their death or absence, of such persons not being witnesses who may have had a knowledge of the facts and circumstances in question, and them severally to examine on oath; and if, on full enquiry, it shall appear to such judge, that the will, act or agreement in writing, inventory, *partage*, donation or contract of marriage, (*contrat de mariage*) *sous seing privé* produced, was by the parties thereto *bonâ fide* made and executed at the time when the same purports to have been made and executed, such Judge shall authorize and order the same to be entered and recorded as hereinabove mentioned; but if he has cause to believe that the same was not *bonâ fide* made and executed at the time when it purports to have been made and executed, or that the same was made collusively, or for any illegal purpose, then the Judge shall reject and return the same to the party producing it, without entering or recording the same. (4 G. 4, c. 15, s. 3.)

5. Whenever such will, act or agreement in writing, inventory, *partage*, donation, contract of marriage, (*contrat de mariage*) *sous seing privé*, has been rejected and returned by such Judge, in the manner herein last mentioned, the party producing the same may appeal from the judgment or decision of the said Judge in that behalf, to the Court of Queen's Bench in the district of Quebec, which Court shall examine and revise such judgment or decision, and may affirm or reverse the same; but no such appeal shall lie nor be granted, unless the same be notified and applied for to the said Judge, within ten days after such judgment or decision shall have been made or rendered. (4 G. 4, c. 15, s. 4.)

6. Whenever any person shall declare his intention to appeal from any decision by which any such will, act or agreement in writing, inventory, *partage*, donation, or contract of marriage, (*contrat de mariage*) *sous seing privé*, shall have been rejected or refused to be entered as aforesaid, the judge shall cause to be reduced to writing the proceedings had before him, and all the testimony and evidence offered or adduced respecting such will, act or agreement in writing, inventory, *partage*, donation or contract of marriage, (*contrat de mariage*) *sous seing privé*, which shall have been so rejected or refused to be entered as aforesaid; and a certified copy of the said proceedings, testimony and evidence, together with the petition of the party or parties who presented such will, act or agreement in writing, inventory, *partage*, donation, contract of marriage, (*contrat de mariage*) *sous seing privé*, and a statement of the reasons of the judgment by which the judge rejected or refused to enter the same, shall, at the instance and request of the party declaring his intention to appeal, be immediately transmitted by the judge at Gaspé to the Court of Queen's Bench at Quebec. (4 G. 4, c. 15, s. 5.)

7. If upon any such appeal the judgment by which such will, act or agreement, inventory, *partage*, donation or contract of marriage, (*contrat de mariage*) *sous seing privé*, has been rejected or refused by the said judge in Gaspé shall be reversed by the said Court of Queen's Bench, the said Court by which such appeal shall have been determined, shall make an order that the said will, act or agreement, inventory, *partage*, donation, contract of marriage (*contrat de mariage*) *sous seing privé*, shall be entered and recorded in the manner herein first before-mentioned, and shall cause the said order, together with the said will, act or agreement, inventory, *partage*, donation, contract of marriage, (*contrat de mariage*) *sous seing privé*, and with all the proceedings, evidence and testimony relating thereto, to be remitted to the said judge in Gaspé, who shall cause the said will, act or agreement in writing, inventory, *partage*, donation, contract of marriage, (*contrat de mariage*) *sous seing privé*, to be entered and recorded accordingly. (4 G. 4, c. 15, s. 6.)

8. Nothing in this Chapter shall be construed to render valid any Act or Contract *sous seing privé* which may be found to be false or fraudulent, or which may be contrary to good morals, or in any wise prohibited by law. (4 G. 4, c. 15, s. 8.)

9. Nothing in this Chapter shall in any wise prejudice the rights of any person purporting to be a party or concerned in any such act or agreement in writing *sous seing privé*, who may not have appeared and admitted or affirmed the same before the provincial judge, at the time when the same may have been attested, nor to prevent such person from taking his legal recourse against such act or agreement in writing *sous seing privé*, enrolled as above mentioned, by an *inscription en faux*, or otherwise according to law. (4 G. 4, c. 15, s. 9.)

10. Any will, act or agreement in writing, inventory, *partage*, donation, or contract of marriage, (*contrat de mariage*), executed during the three years next after the said ninth day of March 1824, before any justice of the peace, or minister, or cure, or missionary, and two subscribing witnesses, or before the prothonotary of the provincial court of the said inferior district, and two subscribing witnesses, shall bear mortgage (*portera hypothèque*) from the day of its execution, and shall, as well as the copies thereof duly certified, be received as valid and authentic in all Courts of law in this Province, as if the same had been executed before notaries; and the originals or minutes of such Act as aforesaid, transmitted to the prothonotary of the said provincial Court under the Act of the Parliament of Lower Canada, 4 Geo. 4, Cap. 15, shall be preserved by the Officer having the custody of the records of the said Court, among the records of his Office, for such legal purposes as the same may serve pursuant to the said Act. (4 G. 4, c. 15, s. 10.)

11. The prothonotary, for enrolling every such will, act or agreement in writing, inventory, *partage*, donation, contract of marriage, (*contrat de mariage*) *sous seing privé*, if the same do not exceed one hundred words, shall be entitled to demand and receive the sum of two shillings and six pence,—and for every hundred words exceeding one hundred, at the rate of six pence,—and for every certified copy of any entry from such book or register, at the rate of one shilling currency, for the first hundred words, and six pence for every hundred words exceeding the first hundred words. (4 G. 4, c. 15, s. 7.)

12. Any will, act or agreement in writing, inventory, *partage*, donation, or contract of marriage, *contrat de mariage*, executed within the interior district of Gaspé, between the ninth day of March, one thousand eight hundred and twenty-four, (being the day of the passing of the Act of the Parliament of Lower Canada, 4 Geo. 4, cap. 15,) and the first day of May, one thousand eight hundred and forty, in the manner prescribed by the tenth section of the Act last mentioned, and with regard to which all the requirements of the said section have been complied with, has borne and shall bear hypothec, and has had and shall have the same legal effect according to its tenor, as if it had been executed before Notaries, and shall, as well as the copies thereof duly certified, be taken and received as valid and authentic in all Courts of Law in this Province, as if executed before Notaries. (3, 4 V. c. 5, s. 1.)

13. Any will, act or agreement in writing, inventory, *partage*, donation, or contract of marriage, executed within the said inferior district of Gaspé, after the said first day of May, one thousand eight hundred and forty, in the manner prescribed by the tenth section of the Act last mentioned, and with regard to which all the requirements of the said section have been complied with, shall bear hypothec, and shall have the same legal effect as if it had been executed before notaries, and shall, as well as the copies thereof, duly certified, be taken and received as valid and authentic in all courts of law in this Province as if executed before notaries: except, that this section shall have no effect with regard to any will, act or agreement in writing, inventory, *partage*, donation or contract of marriage so executed, if there were two notaries resident and practising in the county in which the same was executed at the time of the execution thereof, and during two months before that time; but the proof that there were two notaries so residing and practising shall, in all cases, lie upon the party disputing the validity of any such act or instrument as aforesaid, and if such proofs be not adduced, it shall be held that there were not two notaries so resident and practising at the time such act or instrument was executed. (3, 4 V. c. 5, s. 2.)

14. All adjudications entered in the proper registers under the Act of the Parliament of Lower Canada, 59 Geo. 3, cap. 3, and officially certified copies thereof, made or certified under the authority of the Act of the Parliament of Lower Canada, or under the authority of the Act of the said Parliament, 1 Will. 4, cap. 23, shall to all intents and purposes in law, have the effect of grants from His Majesty, of each and every tract, lot or parcel of land mentioned and set forth in the same, and of which possession has been taken or maintained by virtue of any entry in such register, and shall vest in the person and persons, respectively, holding, by virtue of such adjudication, the fee simple of such tract, lot or parcel of land, and shall be so held by the Judges of all Courts in this Province. (6 W. 4, c. 53, s. 2.)

15. A duplicate of the registers kept by the Commissioners appointed under the authority of the said Act passed in the fifty-ninth year of the reign of King George the Third, shall be deposited by the officer or person in whose possession the same shall be, in the office of the clerk in whose hands the Registers of the provincial Court of the said inferior district of Gaspé shall be; and the said clerk shall deliver duly certified copies of all adjudications entered in the said registers, to any party interested therein who shall demand the same; and the copies so certified, and no others, shall be held in all Courts of law in which they shall be produced in evidence, as being authentic copies of such adjudications; and for each such copy the said clerk shall be entitled to demand and receive the sum of two shillings and six pence currency, and no more. (6 W. 4, c. 53, s. 3.)

16. The original Register kept by the said Commissioners which by the said last mentioned Act was required to be deposited in the office of His Majesty's Executive Council for Lower Canada, shall be and remain in the office of the Executive Council for this Province; and all persons may, as often as they require, have access to the same and obtain copies or extracts therefrom, in the manner and on payment of the fees established and allowed therefor by the said Act, to the clerk of the Executive Council. (6 W. 4, c. 53, s. 4.)

17. All titles to real property in the district of Gaspé, founded on free grants made under the provisions of the Act of the Parliament of this Province, 10, 11 Vic. cap. 30, and within the periods thereby limited shall remain valid. (10, 11 V. c. 30.)

CAP. VI.—LETTERS PATENT FOR LANDS.

1. All Letters Patent of the Crown, whereby any grant of the waste or other public lands in Lower Canada is made, shall be delivered to the person thereto entitled, a copy thereof only being previously recorded in a register to be kept for the purpose by the Registrar of the Province or his Deputy, without any other entry or enrolment. (14, 15 V. c. 16, s. 1.)

2. The Provincial Secretary shall deliver all such Letters Patent as aforesaid, forthwith, or as soon as conveniently may be, to the Registrar of the Province or his Deputy, for enregistration as above provided, and such Registrar or his Deputy shall register the same with the least possible delay, endorsing and signing, as by law provided, a certificate of such enregistration on the Letters Patent, and shall transmit the same to the Commissioner of Crown Lands, to be by him forwarded to the proper person. (14, 15 V. c. 16, s. 2.)

3. The said registrar shall register all such letters patent at full length, by engrossing them separately in one or more properly bound books, and shall in the margin of every such registry insert the time of such registry; and the said registrar shall indorse and sign a certificate of such registry on such letters patent, and shall safely keep all and every the books wherein such registries are made in his said office, there to remain of public record. (36 G. 3, c. 3, s. 3, as amended by subsequent Acts.)

4. The registrar shall furnish and deliver copies of all such letters patent and of all such registries and enrollments thereof, and such certificates under their hands and signatures concerning the same as are hereinbefore mentioned, to all persons requiring the same, and paying the fees hereinafter mentioned. (36 G. 3, c. 3, s. 4.)

5. All copies of the Registry made at full length of any such Letters Patent in the Register hereby required to be kept for the purpose, duly certified under the hand and signature of the Registrar or of his Deputy shall be deemed authentic and shall be evidence of such Letters Patent so registered, and shall have the same effect as the production of the said Letters Patent in Court. (14, 15 V. c. 16, s. 3.)

6. The custody and safe keeping of all Letters Patent, whereby any public lands of the Crown in Lower Canada were at any time granted, before the second day of August 1851, (the day of the passing of the Act 14, 15 V. c. 16) shall belong to the office of the Registrar of the Province; and all copies of such Letters Patent, or of the record of such Letters Patent, duly certified under the signature of the said Registrar or of his Deputy, shall be deemed authentic and shall be evidence of such Letters Patent, or Record thereof, and of the contents thereof, and shall have the same effect as the production of the said Letters Patent, whereof they are certified copies in Court. (14, 15 V. c. 16, s. 4.)

7. All copies of letters patent deposited as then by law required, and of record in the office of the Secretary of the Province, duly certified as such before the day last aforesaid, under the hand and signature of the Secretary of this Province, or of the Province of Lower Canada, for the time being, or his Deputy lawfully appointed, shall be deemed authentic, and as such shall be evidence of such letters patent and of the contents thereof, in all courts and places. (9 G. 4, c. 56.)

8. The registrar shall be entitled to demand from the grantees in any letters patent named, for the registry of such letters patent, the sum of ten shillings, provided the said letters patent do not contain more than two thousand words, and if they contain more than two thousand words, then the said registrar shall be entitled to demand six pence for each and every one hundred words contained in the said letters patent,—and the registrar for each and every copy of such letters patent and of the registries and enrollments thereof, which he is required to deliver, shall be entitled to demand the sum of ten shillings, for each such copy which shall not contain more than two thousand words, but in case the same shall contain more than two thousand words, then the registrar shall be entitled to demand six pence, for each hundred words contained in such copy; and no higher fees shall be demanded for the services aforesaid allowed by the present act. (57 G. 3, c. 28.)

9. If any registrar neglects to perform his duty according to this Act, or commits or suffers to be committed any undue or fraudulent practice in the execution of his said duty, then such registrar shall be liable to pay treble damages and full costs of suit, to any person who shall be injured thereby, to be recovered with costs of suit, by action in any Court of law within this Province, wherein either party shall and may obtain a trial by jury, by whose verdict the truth of the matter in issue, and the *quantum* of damages sustained by the plaintiff, shall be found and assessed. (36 G. 3, c. 3, s. 5.)

10. In all cases where any error as to the name of any intended grantee or purchaser of any public land in Lower Canada, or with respect to the number, designation or description of the lot of Land purchased or intended to be granted or conveyed, or any other essential error shall be discovered in any Letters Patent whereby any such land is intended to be granted or conveyed by the Crown to any grantee or purchaser, the Governor in Council, on a representation to him made by or on behalf of the person interested, may direct the defective Letters Patent to be cancelled, and issue in their stead new Letters Patent, which shall supersede and take the place of the former, and be as effectual thenceforward, as it was intended the former should be and would be, had not such error occurred therein. (14, 15 V. c. 16, s. 6.) *And see Public Lands Acts.*

CAP. VII.—LESSORS AND LESSEES.

1. *Rights of Lessor.*

1. The Lessor or Proprietor shall have a right of action under this Chapter :

1. To rescind the lease, when the tenant fails to garnish the house, tenement, farm or premises leased with sufficient furniture or stock to secure the rent as required by law ;

2. To rescind the lease, when the tenant commits waste upon the premises leased ;

3. To rescind the lease, when the tenant uses the premises leased for illegal purposes, or contrary to the evident intent for which they are leased ;

4. To recover possession of the property leased in all cases when there is a cause for rescision of the lease, and when the tenant continues in possession of the premises leased, against the will of the proprietor or lessor after the expiration of the lease, or without paying the rent according to the stipulations of the lease, when a lease exists, or according to the fifteenth section of this Chapter when there is no lease ;

5. To recover damages arising from a violation of an agreement of lease, or of the legal obligations arising from the relation of lessor and lessee ;

6. To join with any action to enforce the aforesaid remedies, a *demande* for rent due, or to which the lessor or proprietor is entitled, with or without attachment (*saisie gagerie*), and to exercise the *droit de suite* when necessary. (18 V. c. 108, s. 2.)

2. The Lessee shall have the right of action—

2. *Rights of Lessee.*

1. To compel the proprietor or lessor to make the repairs and ameliorations stipulated in the lease, or incumbent upon him by law, of the property leased, and to obtain power to make such repairs at the expense of such proprietor, or (if such lessee so declares his option) to have a rescision of the lease in default of such repairs and ameliorations being made ;

2. For the recovery of damages arising out of an agreement of lease, or of the relation of lessor and lessee ;

3. For the rescision of a lease for a breach of the contract on the part of the lessor, or a failure to perform the obligations devolving upon him by law. (*Ib.* s. 3.)

3. *Procedure under this Chapter.*

3. Any tenant sued under this Chapter, may urge any matters in defence, which he could urge, if sued under the ordinary process of law. (*Ib.* s. 4.)

4. Actions under this Chapter shall be instituted in the usual manner in the Superior or Circuit Court ; and the annual value or rent of the property leased shall determine the jurisdiction of the Court, whatever be the amount of damages and rent sued for. (*Ib.* s. 5.)

5. Any judge of the Superior Court in vacation, shall have and exercise on any juridical day, all the powers of the Superior Court in term, in all suits instituted in such Court under this Act. (*Ib.* s. 6.)

6. Any judge of the Superior or Circuit Court shall have the same power in vacation as in term of the Circuit Court, to hear and determine suits under this Act. (*Ib.* s. 7.)

7. It shall be competent for the Court or Judge, as the case may be, to hear and determine all cases arising under this Chapter, or growing out of the relation of lessor or lessee, and award costs and every process necessary to enforce Judgment. (*Ib.* s. 8.)

8. Writs of summons, attachment and execution, shall be directed to and executed by the officers to whom the like writs in other cases in the Superior and Circuit Court are directed and executed, except writs of possession issuing in the Circuit Court in any suit under this Chapter, which last mentioned writs shall be directed to and executed by a Bailiff of the Superior Court. (*Ib.* s. 9.)

9. It shall be lawful in any action brought under this Chapter, with which a *demande* for rent is joined, to sue out a writ of *saisie arrêt* or *arrêt simple* founded upon affidavit according to law, and any moveables seized under such writs which have been used to furnish the property leased, if seized upon the premises leased, or after their removal, but within eight days thereafter, shall be sold subject to the privilege of rent, in the same manner as if seized by *saisie gagerie*. (*Ib.* s. 10.)

10. One clear day between service of summons and the return thereof in any suit under this Chapter, shall be sufficient when the place of service is within five leagues from that of the sitting of the Court, and an additional delay of one day for every additional five leagues. (*Ib.* s. 11.)

11. If the Defendant does not appear on the day of the return of the writ of summons, and before noon of the said day, default shall be recorded against him, and the Plaintiff shall be permitted to proceed *ex parte* ; if the Defendant appears, he shall be held to plead in writing before noon of the next juridical day following the return day of the writ, and in default thereof, the Plaintiff may, upon filing certificate of such default to plead, proceed *ex parte*. (*Ib.* s. 12.)

12. The Plaintiff shall be held to answer the plea of the Defendant on or before noon of the juridical day next after the filing thereof, and in default thereof the Defendant may obtain from the Prothonotary or Clerk of the Court, *acte* of foreclosure of the Plaintiff from the right of filing such answer, upon application therefor founded upon mere lapse of time and such default to answer, without any demand of plea or service thereof; and every subsequent pleading rendered necessary shall be made and filed before noon of the next juridical day after the filing of the Plaintiff's answer, and in default thereof foreclosure shall be granted to the Plaintiff, and he shall be permitted to proceed to trial and judgment without further completion of the issues in such cause. (*Ib.* s. 13.)

13. In causes under this Chapter, when the issues are complete or either party has obtained foreclosure or right to proceed *ex parte*, the plaintiff or defendant may inscribe the cause upon the roll *des enquêtes* for any juridical day subsequent to the day of the filing of such inscription, and proof shall be adduced on such day, and continued from day to day till closed by both parties; and whenever on any *enquête* day the party whose *enquête* is proceeding shall cease to adduce further evidence, his *enquête*, on the application of the opposite party, shall be declared closed: and upon the *enquête* of both parties being closed, either plaintiff or defendant may inscribe the cause for final hearing on the next juridical day after the closing of such *enquête*, without notice to the opposite party, but if such cause is inscribed upon any day subsequent to such last mentioned day, notice thereof shall be served upon the opposite party. (*Ib.* s. 14.)

14. Appeal shall be allowed from any judgment rendered in a suit under this Chapter instituted in the Circuit Court, to the Superior Court, and in suits instituted in the Superior Court, to the Court of Queen's Bench, under the same rules and subject to the same conditions as other appeals are instituted from judgments of the said Courts, as well if such judgments are rendered in vacation as in term. (*Ib.* s. 15.)

15. Persons holding real property by permission of the proprietor, without lease, shall be held to be lessees and bound to pay to the proprietor the annual value of such property, and their term of holding shall expire on the first day of May of each year, and such holding shall be treated for the purposes of this Chapter, as an annual hiring or lease, subject to *l'acte reconduction* and all rules of law applicable to leases, and the person so in occupation shall be liable to ejection for holding over, for allowing more than three months' rent to remain unpaid, or for any of the causes mentioned in this Act. (*Ib.* s. 16.)

16. *Enquêtes* in suits or actions instituted under this Chapter in the Circuit or Superior Court, shall be taken in writing unless the parties agree to take them otherwise; and if in any case the *enquête* is not taken in writing, by consent of parties, the Court or Judge before whom such case proceeds, shall take minutes of the evidence, which minutes shall be deposited of record, and in the event of such case being appealed, such minutes of evidence shall, for the purposes of such appeal, be treated as the evidence adduced in such case. (*Ib.* s. 17.)

17. Whenever a writ of *saisie gagerie* issues either under this Act or under the law, to seize the effects of a tenant, the same shall not be left in the guardianship of the defendant without the consent of the plaintiff, or unless he offers sureties to be approved by the Sheriff or bailiff as the case may be, for the production of the said effects, which sureties shall be liable to the same penalties and obligations therefor as guardians now are in the case of ordinary writs of execution. (*Ib.* s. 18.)

18. The proprietor or lessor may proceed to recover possession of the property leased, if the lessee holds over at any time after the expiration of three days after the lease has expired, or after the term of holding has expired. (*Ib.* s. 19.)

19. The Court or Judge, in cases under this Chapter, may award and tax costs according to the tariff of the Superior Court in actions instituted in the Circuit Court wherein the amount of all the matters in contestation exceed fifty pounds, and in all cases the costs shall be taxed according to the amount in contestation; Provided that in no case shall the costs be less than are allowed in an appealable case of the lowest class in the Circuit Court. (*Ib.* s. 20.)

20. Nothing in this Chapter shall affect any cause or proceeding instituted or commenced before the Thirtieth day of May, one thousand eight hundred and fifty-five; but all proceedings of such nature shall be continued and finally determined and enforced in the same manner as if this law had not been passed. (*Ib.* s. 21.)

CAP. VIII.—GENERAL ABOLITION OF FEUDAL RIGHTS AND DUTIES.

WHEREAS it is expedient to abolish all Feudal Rights and Duties in Lower Canada, whether bearing upon the *Censitaire* or upon the Seigneur, and to secure fair compensation to the latter for every lucrative right which is now legally his, and which he will lose by such abolition; And whereas in consideration of the great advantages which must result to the Province from the abolition of the said Feudal Rights and Duties and the substitution of a free tenure for that under which the property subject thereto hath heretofore been held, it is expedient to aid the *Censitaire* in the redemption of the said charges, more especially as regards those which while they press most heavily on industry and enterprise, cannot from their very nature be otherwise made immediately redeemable without grievous hardship and injustice in many cases:

1. The Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act the better to facilitate optional commutation of the tenure of lands en roture in the Seigniories and Fiefs in Lower Canada, into that of franc-aleu roturier*, and the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the Act passed in the eighth year of Her Majesty's Reign, intituled, 'An Act the better to facilitate optional commutation of the tenure of lands en roture in the Seigniories and Fiefs in Lower Canada, into that of franc-aleu roturier,'* are repealed in so far as regards the Seigniories to which this chapter applies: but deeds of commutation granted or other things done under them shall remain in full force and have the same effect as if the said Acts had not been repealed. (18 V. c. 3, s. 1.)

2. The power of granting *des lettres de Terrier*, within Lower Canada, in cases where such *lettres* can by law be granted, is vested in the Governor, or person administering the Government of this Province, for the time being, as representing the Queen's Most Excellent Majesty. (48 G. 3, c. 6, s. 1.) But the right of Seigniors in Lower Canada to obtain *Lettres de Terrier* in or for any Seignior to which this chapter extends, is abolished; and the Act of the Legislature of Lower Canada, passed in the forty-eighth year of the Reign of King George the Third, and intituled, *An Act which declares in whom is vested the power of granting des Lettres de Terrier in this Province*, in so far as regards every such Seignior, is repealed. (18 V. c. 103, s. 2.)

1.—DETERMINATION OF THE PRICE TO BE PAID BY SEIGNIOR AND CENSITAIRE FOR THE COMMUTATION OF THE TENURE OF THEIR PROPERTY.

3. The Governor may appoint Commissioners under this Act, and from time to time remove them, and appoint others in the place of any so removed, or dying or resigning office; and each of the said Commissioners shall, before entering upon the duties of his office, take and subscribe, before a Judge of the Superior Court, the following oath:

"I, _____, swear that I will faithfully and without partiality, fear, favor or affection, perform my duty as Commissioner under the Seigniorial Act." (18 V. c. 3, s. 2.)

4. The said Commissioners shall receive for their services and for their necessary expenses and disbursements, such compensation as shall be allowed to them respectively by the Governor, and no other fees or emoluments. (18 V. c. 3, s. 3.)

5. Each of the said Commissioners shall and may act as such in any part of Lower Canada, and they shall be aiding to each other, so that any one of them, if need be, may continue and complete the work begun by any other of them; but subject to this provision the Governor may, from time to time, assign the Seignior or Seigniories in and for which each of them shall act. (18 V. c. 3, s. 4.)

6. Any one of the said Commissioners may give any notice required by any part of this chapter, with respect to any Seignior or Seigniories, and another or others of them may afterwards act in any way under this Act with respect to such Seignior or Seigniories; and generally, each Commissioner who shall act with respect to any Seignior, shall be held to be the Commissioner assigned to act in and for the same under the next preceding section, unless the Governor shall have otherwise directed and ordered. (18 V. c. 103, s. 6.)

7. It shall be the duty of each of the said Commissioners to value the several rights hereinafter mentioned, with regard to each Seignior assigned to him by the Governor, and to draw up in tabular form in triplicate, a Schedule of such Seignior, shewing :

1. The total value of the Seignior, that is to say of all the property and lucrative rights which the Seignior holds as such, whether as Seignior *dominant* of any fief held of him as such Seignior, or otherwise, including in such total value, the value of the rights of the Crown ;

2. The value of the rights of the Crown in the Seignior, including the value of the *droit de quint*, and all other valuable rights of the Crown therein as Seignior *dominant*, or by reason of any reservation in the original grant of the Seignior, and any difference between the absolute value in *franc-aleu roturier* of all unconceded land, waters and water powers in the Seignior, and appertaining thereto, and the value of the Seignior's rights therein, as they have been ascertained by the decisions of the Judges, under the Seigniorial Act of 1854 ;

3. The value of the lucrative rights of the Seignior *dominant*, of whom the Seignior for which the Schedule is made may be held, if the Seignior be an *arrière-fief* ;

4. The yearly value of the Seigniorial rights upon each land, that is to say, each parcel of land originally conceded as a separate lot, or actually owned at the time of making the Schedule by a separate person ; entering severally—the yearly value of the *lods et ventes*,—the yearly value (if any) of the *droit de banalité*, and of the exclusive right to build mills in the Seignior, as distinguished from the right to the water powers, *so far as such rights are recognized by the decision of the Judges under the Seigniorial Act of 1854*, but not otherwise,—the yearly value of the *cens et rentes* and other fixed rights, and of any other legal charges to which the land may be subject ; but the *droit de retrait* shall not be deemed a lucrative right ;

5. The extent of such land according to the title of the owner, if produced, and whether it is held for agricultural purposes, or is a mere emplacement or building lot ;

6. In determining the Seigniorial charges to which each land is subject, the Commissioner shall be guided by the title of the owner from the Seignior, subject to the decision of the Judges under the said Seigniorial Act of 1854, if such decision shall in any way limit the rights of the Seignior under the said title ; and in the absence of the title of the owner, the Commissioner shall determine the extent of the land and the Seigniorial charges to which it is subject by such Books, Plans, *procès-verbaux*, or other secondary evidence as he may be able to procure ;

7. Each land shall be described in the Schedule by the number, and concession, under which it stands in the land-roll of the Seignior, (or if it bear no such description therein, then by the best brief designation the Commissioner can assign to it,) and the name of the owner as it appears on the land-roll, and in default of information on any of the said points, the Commissioner may describe it in such manner as he may think most convenient, provided he assign to each land a separate and distinct number ;

8. The Commissioner shall also include in the Schedule all lands in regard to which the Seigniorial Rights have been commuted, and write opposite thereto the word "Commuted" only. (18 V. c. 3, s. 5.)

9. For the purposes of this Act, every person occupying or possessing any land in any Seignior with the permission of the Seignior, or from whom the Seignior shall have received *rentes* or other Seigniorial dues in respect of such land, shall be held to be the proprietor thereof as *censitaires*. (18 V. c. 103, s. 11.)

10. For the purpose of making the Schedule of any Seignior, the boundaries thereof shall be deemed to be those actually possessed by the Seignior, although all or any part thereof may be in dispute. (19, 20 V. c. 53, s. 16.)

11. In order to determine the value of the Seigniorial rights on lands held *en roture*, the Commissioner shall observe the following rules, namely :

1. The amount of the *cens et rentes* and annual charges shall be taken as the yearly value thereof ; and if any of such rents or charges be payable in grain, fowls or other provisions or fruits of the earth, their average value shall be computed according to the average price of articles of the same kind, taken from the books of the merchants nearest to the place, or ascertained in any other manner the Commissioner thinks most

equitable ; to establish such average year, the fourteen years immediately preceding the period at which the valuation is made, shall be taken, the two highest and the two lowest shall be struck out, and the average year shall be established on the ten remaining years ; the value of personal labour (*corvées*) shall be estimated in the same manner ;

2. Except in the case hereinafter mentioned,—in order to establish the yearly value of the casual rights, an average year of their value shall be computed for each of the two classes of lands hereinafter mentioned, upon the ten years immediately preceding the eighteenth day of December, one thousand eight hundred and fifty-four, and the amount of the valuation of the said average year shall be the yearly value of the said casual rights for all the lands in the Seignior of the same class ; And the Commissioner in estimating the yearly value of the *lods et ventes* in any Seignior, shall distinguish those accruing on lands held as *emplacements* or building lots or for other than agricultural purposes, which shall form one class, from those on lands held for agricultural purposes, which shall form another class ; and the Commissioner shall apportion the yearly value of the *lods et ventes* on each class, upon the lands belonging to that class, charging each land with a portion thereof proportionate to its value with regard to lands held as *emplacements* or building lots, or for other than agricultural purposes, and proportionate to its extent with regard to lands held for agricultural purposes : and any *rente* expressly charged in any Deed of partial commutation under the Acts hereby repealed, as an indemnity to be paid by the *Censitaire* instead of *lods et ventes*, shall be held to represent the value of the right to *lods et ventes* on the land referred to, and shall be entered and dealt with in all respects accordingly ; Provided always that whenever the rule prescribed by this sub-section for determining the yearly value of any casual rights cannot be applied in any Seignior, the Commissioner shall himself adopt some other equitable mode of estimating such yearly value. (*This proviso is 19, 20 V. c. 53, s. 1.*)

3. In order to establish the yearly value of the *droit de banalité* and the exclusive right of having mills in the Seignior, (independently of the right to the water power,) so far as such rights have been recognized by the Judges under the Seigniorial Act of 1854, the Commissioner shall estimate the probable decrease (if any) in the net yearly income of the Seignior from his mills, to arise from the loss of such right, and the said sum shall be deemed the yearly value of such right, and shall be apportioned upon the lands subject to the said right in proportion to their extent ;

4. Any other rights shall be valued according to the revenue or profits which may have accrued therefrom, to be ascertained by the Commissioner in such manner as he shall deem most equitable, and shall be charged upon the lands subject thereto respectively ;

5. The yearly value of each class of rights upon each land, shall become a *rente constituée* charged upon the same as the compensation payable to the Seignior thereof, and the total amount of such *rentes constituées* on any land, after the deduction to be made therefrom as hereinafter provided, shall be payable to the Seignior yearly, at the time and place where the *cens et rentes* on such land were payable at the time of the passing of the said Seigniorial Act of 1854, unless it be otherwise agreed between the Seignior and the *Censitaire*, and shall accrue from the day on which notice of the deposit of the Schedule of the Seignior shall be given in the *Canada Gazette*, on which day the present *cens et rentes* and other annual charges upon the land shall cease to accrue ; and both they and the *rentes constituées* under this Act shall accrue rateably for any broken period less than a year, during which they may exist ;

6. The value of the rights of the Seignior *Dominant* in any *arrière-fief*, shall form the capital of a *rente constituée* payable yearly by the Seignior of the *arrière-fief*, on the day of the date of the publication in the *Canada Gazette* of the notice of the deposit of the Schedule of such *arrière-fief*, and accruing from the day of such publication ; but out of the moneys coming to the Seignior of the *arrière-fief*, from the Provincial aid hereinafter mentioned, a sum bearing the same proportion to the whole of such moneys as the value of the rights of the Seignior *Dominant* in such *arrière-fief* bears to the value set upon the Seigniorial rights of the Seignior *servant* in such *arrière-fief*, shall belong to the Seignior *Dominant*, and his said *rente constituée* shall be diminished by the amount of the yearly interest at six per cent per annum, of the sum so coming to him out of the said Provincial aid. (*18 V. c. 3, s. 6, except sub-section 7.*)

11. In estimating the casual rights of the Crown in the several Seigniories in Lower Canada, the Commissioners shall establish the average yearly revenue of the Crown arising from these rights throughout Lower Canada, and such average yearly revenue shall be taken as representing the interest at six per cent. of a capital sum to be apportioned among all the Seigniories liable to the payment of *Quint*, in proportion to their value: the amount apportioned to each Seigniory shall represent the rights of the Crown therein, and shall be deducted from the amount to be paid by the *Censitaires* for the redemption of the casual rights of the Seigneur. (19, 20 V. c. 53, s. 3.)

2. Proceedings of and before the Commissioners and their powers for making the Schedules.

12. Before beginning to prepare the Schedule for any Seigniory, some one of the Commissioners shall give public notice of the place, day and hour, at which the inquiry will be commenced; and such notice shall be made by placards and publications in the English and French languages, at the door of every parish Church in such Seigniory, during four consecutive Sundays at the conclusion of divine service in the forenoon, or by placards in both languages, posted during four consecutive weeks, in the most frequented place in any Seigniory in which there shall be no Church. (18 V. c. 3, s. 7, as amended by 18 V. c. 103, s. 6.)

13. The Commissioner may enter upon all lands situate in the Seigniory the Schedule whereof is to be made *in whole or in part* by him, in order to make such examination thereof as may be necessary, without his being subject in respect thereof to any obstruction or prosecution, and with the right to command the assistance of all Justices, Peace Officers and others, in order to enter and make such examination, in case of opposition. (18 V. c. 3, s. 8.)

14. The said Commissioners, and each of them separately, shall have full power and authority to examine on oath any person who appears before them, or any of them, either as a party interested or as a witness, and to summon before them, or any of them, all or persons whom they or any of them deem it expedient to examine upon the matters subject to their consideration, and the facts which they may require to ascertain in order to carry this Act into effect, and to require any such person to bring with him and produce before them, or any of them, any Book, Paper, Plan, Instrument, Document or thing mentioned in such summons, and necessary for the purposes of this Act: and if any person so summoned refuses or neglects to appear before them, or before the Commissioner who shall have summoned him, or appearing, shall refuse to answer any lawful question put to him, or to produce any such Book, Paper, Plan, Instrument, Document or thing whatsoever which may be in his possession, and which he has been required by such summons to bring with him or to produce, such person shall for every such refusal or neglect incur a penalty of not less than ten nor more than fifty pounds currency, payable to Her Majesty, to be recovered with costs upon summary plaint by such Commissioner before any Judge of the Superior or Circuit Court, and in default of immediate payment shall, by warrant of such Judge, be apprehended and committed to the Common Gaol of the District for a period not exceeding one calendar month. (18 V. c. 3, s. 9.)

15. The Commissioner making the Schedule of any Seigniory shall have full power either by himself or by any person authorized by him, to inspect the Repertory of any Notary, whenever he thinks such inspection desirable for obtaining information to ensure the greater correctness of the Schedule, such inspection being demanded and made at reasonable hours and on juridical days; and any Notary refusing to allow such inspection shall thereby incur a penalty of one hundred pounds; and for each such inspection the Notary shall be entitled to five shillings for each hour it shall continue; Provided that whenever any such inspection shall be demanded by any Seigneur, it shall be made at his expense. (19, 20 V. c. 53, s. 15.)

16. Any person who in any manner interrupts, obstructs, impedes or molests a Commissioner under this chapter, or any person acting under his instructions, in the execution of his duty in any manner connected with the carrying into effect of this chapter or in any manner deters, prevents or hinders by force, threats or otherwise, any such Commissioner or person acting under his instructions from performing any duties assigned to him, shall be liable to be imprisoned for every such offence for a period not exceeding two months; and it shall be lawful for any one Justice of the Peace to commit any person convicted before him on the oath of one credible witness of any such offence; and no conviction, order, warrant or other matter made or purporting to be made under this chapter, shall be quashed for want of form, or be removed, by *certiorari* or otherwise, into any of Her Majesty's Courts of record for want of such form. (18 V. c. 103, s. 12.)

17. All the provisions relative to the appointment of *Experts*, contained in the tenth Section of the Seigniorial Act of 1854, or in any other Section of the said Act, are repealed; and in all Seigniories in which there have been requisitions for or appointments of *Experts*, the Commissioners shall act in every respect as though there had been no such requisition for or appointment of *Experts*. (19, 20 V. c. 53, s. 4.)

18. The Commissioners, immediately after the making of the Schedule of a Seignior, shall give eight days' public notice in the manner prescribed by the *twelfth* Section of this chapter, that such Schedule will remain open for the inspection of the Seignior and the *Censitaires* of the Seignior during the thirty days following the said notice, in some convenient place in the Seignior in charge of some fit and proper person, and the name of such person and the place of deposit shall be indicated in such notice; and any person interested in the Schedule may point out in writing, addressed to the Commissioner and left with the person in charge of the Schedule, any error or omission therein, and require that the same be corrected or supplied; and at the expiration of the said thirty days it shall be the duty of the Commissioner to be present at the place indicated in such Notice, and to examine into and decide upon the objections made in writing as aforesaid. (18 V. c. 3, s. 11, *as amended by*, 19, 20 V. c. 53, s. 5.)

3. REVISION OF THE SCHEDULES.

19. The Governor may, by letter under the signature of the Provincial Secretary, select from the Commissioners so appointed, four of their number, of whom any three shall form a Court for the revision of Schedules made under this chapter, and may in like manner from time to time remove them and appoint others in the place of any so removed, dying, resigning office or being incapacitated to act;

2. The decision of any two of the Commissioners so selected, whether the others be present or not, on any matter relating to the revision of any Schedule made under this chapter, shall be final;

3. In making such revision the Commissioners shall proceed summarily, but they may order any evidence to be adduced which they may think requisite to enable them to pronounce a correct decision, and for that purpose shall have the same powers as in making a Schedule.

20. No Commissioner so selected shall sit in revision of any Schedule finally completed by him, but this provision shall not apply to the Commissioner or Commissioners who shall have taken any of the proceedings preliminary to the completion of the Schedule. (18 V. c. 3, s. 11, *par. 4, as amended by* 19, 20 V. c. 53, s. 6.)

21. No revision of any Schedule shall be allowed, unless application be made for the same within fifteen days after the Commissioner has given his decision, as provided for by the *eighth* section of this chapter; and every such application shall be made by a petition presented on behalf of the party interested, to the Revising Commissioners or any one of them, specifying the objections made to such Schedule. (19, 20 V. c. 53, s. 8.)

22. Upon the receipt of any such petition, it shall be the duty of the Revising Commissioners, after having given eight days' notice to the parties interested, in the manner prescribed by the *twelfth* section of this chapter, to proceed to revise the Schedule therein mentioned, and for that purpose, to hear, try and determine the matters alleged in the said petition. The proceedings upon such revision shall be kept of record, and if the Commissioners find any error, they shall correct the same. (19, 20 V. c. 53, s. 8.)

23. The said Court of Revision may award and tax costs against any party who in their opinion has demanded or opposed the revision of the Schedule without reasonable cause, and such costs may be recovered on the certificate of any one of the said Commissioners as a debt due by the party against whom they have been awarded, to the party in whose favour they have been taxed. (18 V. c. 3, s. 12, *par.* 7.)

24. The Commissioners selected to form a Court for the revision of the Schedules shall sit at Montreal for the Seigniories in the Districts of Montreal and Ottawa; at Three-Rivers for those in the District of Three-Rivers; at Quebec for those in the District of Quebec; at Kamouraska for those in the District of Kamouraska; and at New Carlisle for those in the District of Gaspé; but any petition for the revision of a Schedule may be presented to the Revising Commissioners, or any one of them, in any District. (19, 20 V. c. 53, s. 9.)

4. DEPOSIT OF THE SCHEDULES AND ITS EFFECT.

25. As soon as the Schedule of a Seigniority has been completed in the manner hereinbefore provided, the Commissioner who made it shall transmit a triplicate thereof to the Receiver General of this Province; he shall deposit another triplicate in the office of the Superior Court in the District in which the Seigniority is situate, or if such Seigniority be situate in two Districts, then in the office of the said Court in that District in which the greater part of such Seigniority is situate; and shall retain the other triplicate in his hands until it shall be otherwise provided by law; and he shall give public notice of his having so deposited the same, in the terms of the form A, annexed to this chapter, or in other terms of like import, in the English and French languages in the *Canada Gazette*, or other newspaper recognized as the Official Gazette of the Province, and in at least one newspaper published in the District in which such Seigniority or the greater part thereof is situate, or if there be no newspaper published in such District, such notice shall be so published in the nearest District wherein one or more newspapers are published. And the Clerk of the Superior Court shall furnish copies of or extracts from such Schedule duly certified in the usual form, to any person applying for the same, and may demand three pence currency for every hundred words or figures in any such copy or extract; and he shall also furnish one copy of every such Schedule on demand to the Seignior of the Seigniority to which it relates, and the costs thereof shall be paid out of the funds provided by this chapter; and all such copies and extracts, whether in words or figures, shall be deemed authentic, and shall serve as *prima facie* proof of all matters therein set forth. (18 V. c. 3, s. 13.)

26. After any Schedule has been completed and deposited under this chapter, it shall not be impeached or its effect impaired for any informality, error or defect in any prior proceeding in relation to it, or in any thing required by this or any other Act to be done before it was so completed and deposited, but all such prior proceedings and things shall be held to have been rightly and formally had and done, unless the contrary expressly appear on the face of such Schedule; and the same rule shall apply to all proceedings of the Commissioners under this chapter, so that no one of them, when completed, shall be impeached or questioned for any informality, error or defect in any previous proceeding, or in any thing theretofore done or omitted to be done by the Commissioners or any of them. (18 V. c. 103, s. 10.)

5. ABOLITION OF FEUDAL RIGHTS AND DUTIES.

27. Upon, from and after the date of the publication in the *Canada Gazette*, or other Official Gazette, of a notice of the deposit of the Schedule of any Seigniority as aforesaid, every *Censitaire* in such Seigniority shall by virtue thereof hold his land in *franc-aleu roturier*, free and clear of all *Cens*, *Droit de banalité*, *Droit de Retrait* and other feudal and Seignioral duties and charges whatever, except the *Rente constituée* which will be substituted for all Seignioral duties and charges; and every Seignior shall thereafter hold his domain and the unconceded lands in his Seigniority, and all water powers and real estate now belonging to him, in *franc-aleu roturier*, by virtue of this Act, and the same and the *Rentes constituées* payable to him under this chapter by his *Censitaires*, or by any Seignior of whose Fief or Seigniority he is the Seignior *Dominant*, shall be held and enjoyed by him free and clear of all feudal dues or duties to the Crown or to any Seignior *Dominant* of whom his Fief or Seigniority is now held; subject always, both as regards Seignior and *Censitaire*, to the provisions of this chapter; Nor shall the Seignior as such after the said time be subject to any onerous obligation towards his *Censitaires*, or be entitled to any honorary rights, nor shall any land be thereafter granted by any Seignior to be held by any other tenure than *franc-aleu roturier*, or subject to any mutation fines or other feudal dues. (18, V. c. 3, s. 14, as amended by 18, V. c. 103, s. 3, and 19, 20, V. c. 17.)

28. But no right which any Seigneur has acquired by any legal stipulation entered into before the eighteenth day of December, one thousand eight hundred and fifty-four, by any deed subsequent to the deed of concession, to take any land for the purpose of using the water power adjoining the same and belonging to such Seigneur, on paying for such land the full value thereof and of all improvements thereon, shall cease by reason of this Act or of the Seignorial Act of 1-54, but the same shall remain in full force: Provided always, that if the owner of any land adjoining any water power so acquired by the Seigneur, and not then used by him, did at any time after the expiration of one year from the said eighteenth of December one thousand eight hundred and fifty-four, demande the right to use such water power from the Seigneur on paying him the full value of such right and such value, if not agreed upon, has been fixed by Arbitrators in the manner provided by the said Seignorial Act of 1854, the award of any two of them shall be conclusive; and upon payment or tender to the Seigneur of the value awarded, the owner of such land shall have the right to use such water power in the manner mentioned in the demand thereof and in the said award. (18 V. c. 3, s. 5, corrected as to time.)

29. All unconceded lands in any Seigniority the tenure of which has not been theretofore commuted, shall be held by the Seigneur *in franc aleu roturier*, and may be dealt with by him in like manner as land held by other persons under the same tenure may be dealt with; except that if the Seigniority be entailed (*substitué*) or held by any party otherwise than as absolute owner thereof, then the price of such lands shall form the capital of a *rente constituée*, which capital shall not be paid except to some party holding the Seigniority as absolute owner thereof; but any party whose title would, before the passing of the Seignorial Act of 1854, have authorized him to concede such unconceded lands, may sell the same for such *rente constituée* as aforesaid, and not otherwise. (19, 20, V. c. 53, s. 17.)

6. DECISIONS OF THE SEIGNORIAL COURT—THEIR EFFECT.

30. The decision pronounced by the Judges of the Court of Queen's Bench and Superior Court for Lower Canada on each of the questions and propositions submitted to them under the provisions of the sixteenth section of the Seignorial Act of 1851, shall guide the Commissioners and the Attorney General, and shall in any actual case arising be held to have been a judgment in appeal *en dernier ressort* on the point raised by such question, in a like case, though between other parties. (18 V. c. 3, s. 16, par. 9, corrected for time.)

31. In any case in which, by reason of an equal division, no judgment was rendered by the said Judges on any question to them submitted under the provisions of the sixteenth section of the Seignorial Act of 1-54, the Commissioner making the Schedule shall, in any case to which such question refers, decide it in such manner as he shall think most equitable under the circumstances, saving the right of the Court for the revision of Schedules, to pronounce a final decision on such question or questions, and to amend such Schedule according to such decision, if need shall be. (19, 20 V. c. 53, s. 14.)

7. PROVINCIAL APPROPRIATION FOR RELIEF OF CENSITAIRES AND EXPENSES UNDER THIS CHAPTER.

32. The emoluments and disbursements of the said Commissioners, with the expenses to be incurred under this chapter and the Seignorial Acts of 1854, 1855 and 1856, shall be paid out of the Consolidated Revenue Fund of this Province, by Warrant of the Governor; and a sum not exceeding in the whole what shall remain of the amount hereinafter limited after deducting therefrom the said emoluments, disbursements and expenses may likewise be paid out of the said Fund for the purposes of this chapter and the Acts aforesaid; and the Governor in Council may cause any sum or sums not exceeding in the whole the sum required for defraying the expenditure authorized by this chapter and the Acts aforesaid, to be raised by Debentures to be issued on the credit of the said Consolidated Revenue Fund, in such form, bearing such rate of interest, and the principal and interest whereof shall be payable out of the said Fund at such times and places as the Governor in Council shall think most advantageous for the public interest; and the moneys so raised as aforesaid shall make part of the said Consolidated Revenue Fund of this Province: Provided always, that the total amount of moneys to be paid, whether in money or debentures under this chapter and the Acts aforesaid, shall not exceed by more than one hundred and fifty thousand pounds, the sum of which the average yearly proceeds of the other sources of Revenue hereinafter mentioned (upon an average of the last five years) would be the yearly interest at six per cent. per annum, added to the value of the Crown's rights in the Seigniorities affected by this chapter. (18 V. c. 3, s. 17.)

33. The moneys arising from the following sources of Revenue, shall be specially appropriated to make good to the said Consolidated Revenue Fund, the amount taken out of the same for the purpose of paying the sums charged upon it under the next preceding section, that is to say :

All moneys arising from the value of the rights of the Crown, from *droits de Quint* and other dues, in or upon the Seigniories of which the Crown is Seignior *Dominant*, and which are to be commuted by this chapter as such value shall be fixed by the Schedules of the said Seigniories respectively, and all arrears of such dues ;

All moneys arising from the Revenues of the Seignior of Lauzon, or from the sale of any part of the said Seignior sold after the eighteenth day of December, one thousand eight hundred and fifty-four, and all arrears of such Revenues ;

All moneys arising from Auction Duties and Auctioneers' Licenses in Lower Canada ;

All moneys arising in Lower Canada from Licenses to sell spirituous, vinous or fermented liquors by retail in places other than places of Public Entertainment, commonly called Shop or Store Licenses ;

All moneys arising from Tavern Licenses in Lower Canada, after the present charges on that Fund have been paid off, except however such portions of that Fund as are levied in the Townships ;

And separate accounts shall be kept of all moneys arising from the sources of Revenue aforesaid, and of the moneys disbursed under this Act, allowing interest on both sides at the then current rate on Provincial Debentures, to the end that if the sums payable out of the Consolidated Revenue Fund under this chapter, exceed in the whole the total amount of the sums arising from the sources of Revenue so specially appropriated and any interest allowed thereon as aforesaid, a sum equal to such excess shall be set apart, to be appropriated by Parliament for some local purpose or purposes in Upper Canada. (18 V. c. 3, s. 18.)

31. The Special Fund constituted as aforesaid, shall, after deducting the expenses incurred under this chapter, and the Seigniorial Acts of 1854, 1855 and 1853, be appropriated in aid of the *Censitaires* in the several Seigniories, in the following manner :

2. The sum to be established as the value of the rights of the Crown in each Seignior as aforesaid, and the difference between the absolute value in *franc-aleu-roturier* of all unconceded lands, waters and water powers in the Seigniories and the value of the Seigniors' rights therein, shall be appropriated in aid of the *Censitaires* of such Seignior in reduction of the *rentes constituées* representing the *lods et ventes* or other mutation fines therein, by an equal per centage of reduction on each such *rente* ;

3. The remainder of the said Special Fund shall be apportioned by the Receiver General (amongst the several Seigniories to which this chapter extends,) giving to each an equal per centage on the total amount of the constituted rents established by the Schedule of each such Seignior, after deducting the value of the Crown's rights therein ; And the sum as apportioned to each Seignior shall be applied by the Receiver General in the following order, which : shall be the order of charges thereon :

1st. to the redemption of so much of the said *rentes constituées* representing the *lods et ventes* or other mutation fines in the Seignior as may remain after the reduction made by the application of the value of the Crown's rights as aforesaid, by an equal per centage of reduction on such remaining *rentes* in each case ;

2dly. To the redemption of the *rentes constituées* representing the Banality in the Seignior, by an equal per centage of reduction on each such *rente* ;

3dly. To the redemption of the *rentes constituées* representing the *cens et rentes* and other charges on lands held for Agricultural purposes in the Seignior, by an equal per centage of reduction on each such *rente constituée*, exceeding the rate of one penny half penny per annum, per *arpent* ;

4. The reduction of such *rentes constituées* shall always be in proportion to the capital sum applied to effect such reduction, the reduction being equal to the legal interest of such capital ;

5. The sums so apportioned for each Seignior shall belong to the Seignior thereof, subject always to the right of the Seignior *Dominant*, and shall be dealt with in every respect as moneys paid in redemption of the *rentes constituées* mentioned in the Schedule of such Seignior, subject to the special provisions hereinafter made. (18 V. c. 3, s. 19.)

8. APPLICATION OF MONEYS ARISING FROM THE REDEMPTION OF SEIGNORIAL RIGHTS, &c.

35 Every proprietor of a Seignior having within his *mouvance* another or several fiefs, (unless the value of his rights has been entered in the Schedule thereof,) and every person having an hypothecary claim on any Seignior the Schedule relative to which has been deposited in the Office of the Clerk of the Superior Court in the District in which such Seignior or part thereof is situate, must, for the preservation of his privileges, within six months from the date of the notice in the *Canada Gazette* of the deposit of the Schedule of such Seignior, file an opposition to the distribution of all moneys arising or which may arise from the redemption of the Seigniorial rights in such Seignior: every such opposition shall be filed in the said office and have effect for thirty years, unless sooner withdrawn, or by judgment of the Court dismissed; and if any such opposition be renewed within a less time than thirty years, the opposant shall only be entitled to the costs of one single opposition; and while such opposition shall so remain in force, any *Censitaire* who shall pay the capital or redemption money of the *rente constituée* to the Seignior, shall do so at his peril, and on pain of being liable, to any such opposant for any loss he may thereby sustain. (18 V. c. 3, s. 20.)

36. All minors, interdicted persons and married women, even in the case of dower not yet open (*non encore ouvert*), and all who have entailed or contingent rights, by themselves or their tutors, curators, husbands or others who may act for them, are also required, for the preservation of their privileges, to file their opposition to the distribution of all such moneys in the manner provided in the next preceding section: but tutors, curators, husbands or others neglecting to file such oppositions shall, nevertheless, continue to be responsible towards the persons under their charge or authority for any loss resulting from their negligence in the said behalf. (18 V. c. 3, s. 21.)

37. If, after the expiration of six months, from the date of the first publication in the *Canada Gazette* of the Notice of the Deposit of the Schedule of the Seignior in which such land is situate, the possessor of such Seignior produces to the Receiver General a certificate, granted by the Clerk of the Superior Court for the District in which the Schedule relative to such Seignior, or a triplicate thereof, is deposited, stating that there is no opposition to the payment of the redemption moneys in such Seignior, the said Receiver General shall pay to the said Seignior, on his giving a duplicate receipt therefor, the amount of any moneys coming to such Seignior out of the Special Fund hereinbefore mentioned, allowing interest at six per cent per annum, to be computed from the date of the said notice, and thereafter the Seignior shall have full right to receive the price of the *rentes constituées* in his Seignior directly from the *Censitaires*, and to deal with such *rentes* as he shall see fit. (18 V. c. 3, s. 22.)

38. Whenever the Receiver General has ascertained the amount of money coming to any Seignior out of the Special Fund hereby appropriated in aid of the *Censitaires*, and there is an opposition filed as aforesaid to the distribution of such money, the Receiver General shall deposit a certificate of the said amount in the hands of the Clerk of the Superior Court in the District wherein the Schedule relative to the said Seignior, has been deposited; and the said Court shall make the distribution of the said moneys among the opposants, according to the order of their hypothecs, and the preference of their respective privileges; and the Receiver General shall pay the same to the Clerk of the Court to be distributed according to such order, but the interest on any sum coming to a Seignior, and in the Receiver General's hands, shall always be payable, to such Seignior (18 V. c. 3, s. 23.)

Provided always that in the event of any Seignior or Seignior *dominant* being indebted to the Crown in any sum of money for any right arising from any Seignior held by such Seignior or Seignior *dominant*, the Receiver General shall retain the amount so due to the Crown from the amount payable to such Seignior or Seignior *dominant* under the provisions of this Act, and the amount (if any) due to the Crown by each Seignior, shall be ascertained by the Commissioner making the Schedule of each Seignior and certified by him to the Receiver General. 19, 20 V. c. 53. s. 13.)

9. IMMEDIATE ABOLITION OF MUTATION FINES; AND COMPENSATION THEREFOR.

39. No *lods et ventes*, *quint*, *relief* or other mutation fine, shall accrue upon any mutation which has taken place after the thirtieth day of May, one thousand eight hundred and fifty-five, in any Fief or Seigniority to which this chapter extends or applies, but instead thereof the Receiver General shall credit the Fund appropriated in aid of the *censitaires*, with interest from the day last named on the total amount of the appropriation, and the *rente constituée* payable by any Seignior to his Seignior Dominant shall accrue from the said day;

The Commissioners, or any one or more of them, shall make a separate statement for each Seigniority, shewing, as nearly as can then be ascertained, and subject to correction thereafter:

1. The average yearly revenue from *lods et ventes*,—
2. The average yearly revenue from *quint*,—
3. The average yearly revenue from *relief*,—and
4. The average yearly revenue from other casual rights (if any) which ceased to be payable after the thirtieth day of May, one thousand eight hundred and fifty-five under the Seigniorial Amendment Act of 1855;

5. Such statement shall be made separately for each Seigniority, and so soon as the Commissioners are able to make it, and shall be sent to the Receiver General; and the amount of such yearly revenue in each Seigniority as shewn by such statement, from the thirtieth day of May, one thousand eight hundred and fifty-five, up to the first day of January or July last past at the time the statement shall come to the Receiver General, shall be then paid by the Receiver General to the Seignior or Seignior *dominant* of such Seigniority; and thereafter one half of the average yearly revenue mentioned in each such statement respectively, shall be paid to the Seignior or Seignior *dominant* entitled to it, on the first day of January and the first day of July, until the Schedules are finally deposited; and the amount so paid to each Seignior shall be debited to him, as so much received by him on account of the portion of the Provincial appropriation for the relief of *Censitaires* payable to him and of the interest on such portion; but in computing the amount to be deducted on account of the said Provincial aid, from the total value of the Seigniorial rights in any Seigniority as shewn by the Schedule thereof, in order to ascertain the amount remaining chargeable upon the *Censitaires*, the correct value of such casual rights (as finally ascertained by the Schedule) from the said thirtieth of May, one thousand eight hundred and fifty-five, to the publication of the notice of deposit of the Schedule, (as representing the average sum saved by the *Censitaires* during the same period, by the non-payment of the said casual rights or any compensation therefor,) be deducted from the total amount of principal and interest payable to the Seignior from the said Provincial Aid, and the remainder shall be the sum to be deducted from the total value of the Seigniorial Rights as shewn by the Schedule, in order to ascertain the amount payable by the *Censitaires*;

6. Provided always, first, that the whole sum to be paid by the Receiver General to any Seignior *dominant*, shall be also deducted from that which would be otherwise payable by the *Censitaires* of the Seignior *servant*; And secondly, that if the approximate sum paid to any Seignior *dominant* under this section by the Receiver General, shall be more or less than the true value of his rights for the time, the difference shall be deducted or added (as the case may require) from or to the sum to be paid by the Receiver General to such Seignior *dominant*, under the *sixth* sub-section of section *ten* of this Chapter. (18 V. c. 103, s. 3, as amended by 19, 20 V. c. 53, s. 12.)

41. The right of *retrait conventionnel* which the Seignior was allowed to stipulate solely for the purpose of securing to him the payment of mutation fines is hereby abolished. (18 V. c. 103, s. 4.)

10. INVESTMENT OF SUCH MONIES.

XLI. The Receiver General shall, from time to time, place any moneys in his hands as part of the Fund in aid of the *Censitaires*, and not then required for the purposes thereof, at interest in any Chartered Bank, or invest the same in Provincial Debentures or Debentures guaranteed by the Province, and shall apply the interest thereon towards making good that allowed under this Act. (18 V. c. 103, s. 5.)

42. All persons holding in mortmain, corporations, tutors, curators and administrators possessing lands held *en roture*, or persons holding entailed lands the *rentes constituées* upon which can be redeemed with advantage to those whom they represent, may effect the redemption of any *rente constituée* under the provisions of this Chapter by paying the price of redemption out of the moneys of those whom they represent: Provided that tutors, curators and usufructuary proprietors (*usufruitiers*) and holders of entailed lands, observe the formalities required by law in the alienation of the property of the persons whose rights shall be represented by them; but persons holding in mortmain and corporations shall not be required to observe any other formality in or before the redemption of any such *rente constituée* than those prescribed by this Act. (18 V. c. 3, s. 24.)

43. And it shall be lawful for the several religious or ecclesiastical communities, holding in mortmain Fiefs or Seigniories in Lower Canada, to invest from time to time, as they shall see fit, in any lands or tenements in this Province, or in any public or private securities in this Province, which they shall deem the most advisable or advantageous to their respective communities, any sums of money that may accrue to them from the redemption of any *rente constituée* created under this chapter, or out of the Special Fund appropriated in aid of the *Censitaires*. (18 V. c. 3, s. 25.)

11. DESTINATION AND LEGAL CHARACTER OF PROPERTIES AND RIGHTS HEREAFTER TO REPRESENT SEIGNIORIES.

44. In respect of all rights acquired in, to or upon any Seigniorie before the publication in the *Canada Gazette* of the notice of the deposit of the Schedule of any Seigniorie and for the preservation whereof an opposition is filed within six months from the date of the said publication, all lands and real rights which at and immediately before the eighteenth day of December, one thousand eight hundred and fifty-four, were held by the Seignior as part of his Seigniorie, all rights secured to him under the Schedule thereof, all *rentes* under this Act to be created, all moneys to arise from the redemption of any such *rentes*, or to be received by the Seignior out of the aid granted to the *Censitaires* towards the redemption of Seigniorial rights, duties and dues, and all properties and rights so by such Seignior acquired as to represent such moneys, shall be held and taken as though attached to the *domaine* of such Seigniorie, and as representing such Seigniorie; but in respect of all rights thereafter to accrue, or for the preservation whereof no opposition is filed within the delay aforesaid, all such lands, rights, *rentes* and moneys shall be held and taken to be, and shall be to all intents separate and independent properties and rights; and it shall not be requisite that any person, in order to the holding, recovery or enforcement of any thereof, should qualify himself as being, or as ever having been, a Seignior. (18 V. c. 3, s. 26.)

45. All *rentes constituées* created under this chapter, shall have the same privileges *ex causâ* as the right of the *Bailleur de fonds*, and the like preference over all other hypothecary claims affecting the land, as any Seigniorial dues upon or arising out of such land would have had previous to the redemption of the said dues, without any registration in any Registry office to that end; but the creditor shall not have the right to recover more than five years arrears of any such rent; and in default of moveables out of which the amount of any judgment for such arrears, though amounting to less than ten pounds currency, may be levied, execution may issue against such land after a delay of one year from the date of such judgment, and not sooner. (18 V. c. 3, s. 27.)

46. Every *rente constituée* established by virtue of this chapter, shall always be redeemable, but if the Seigniorie be entailed (*substituée*) or held by a tutor, curator or usufructuary proprietor (*usufruitier*), and an opposition be filed and then in force, the *rente* and arrears only shall be received, subject always to the exception in the next following section, which shall apply to all cases of redemption of such *rentes*. 18 V. c. 3, s. 28, as amended by 18 V. c. 103, s. 1.)

47. Any such constituted rent (*rente constituée*) in any Seignior, in relation to which an opposition has been filed under any of the provisions of this chapter, may, at any time be redeemed by payment to the Receiver General of the capital thereof with interest computed up to the date of such redemption :

2. And the Receiver General shall dispose of all such moneys as follows :

If they accrue in a Seignior in relation to which opposition has been made on the ground that such Seignior is entailed (*substitué*) or held by a curator, tutor or other person holding in trust for others, and not as absolute proprietor (*jure proprietario*), the Receiver General shall, on the day in each year on which the *rente* would have become due if it had not been redeemed, and so long as such entail (*substitution*) or tenancy in trust (*fidéicomis*) subsists pay to the person entitled to the revenue of the Seignior, interest upon the capital of all such *rentes* at the rate of six per centum per annum, and he shall pay the capital thereof at the expiration of the substitution, or tenancy in trust, to such person as shall be designated by the Judgment of the Court before which such opposition has been made ; Provided always, that it shall be lawful for the said Court, on petition of such curator, tutor or other person holding in trust for others, at any time before the expiration of the substitution or tenancy in trust, to order that such capital, or any portion thereof, shall be by such curator, tutor or other person, laid out and invested in real or immoveable property to be designated in the order, and thereupon it shall be lawful for the Receiver General to pay the sum mentioned in such order to the person or party therein designated as the vendor of such real or immoveable property or as otherwise entitled to receive the price thereof, and thereafter such real or immoveable property shall be subject to all such and the same trusts (*fidéicomis*) or entails (*substitutions*) as the Seignior in respect to which the same was so ordered to be acquired as aforesaid.

And if they accrue in a Seignior in relation to which such opposition has been made by reason of hypothecary claims thereon, and not upon the ground of the same being entailed or held in trust as aforesaid, the Receiver General shall deal with such moneys in the same manner as with money accruing to the Seignior out of the Special Fund appropriated by the said Act in aid of the *Censitaires*.

3. And in every Seignior the Seignior whereof shall have the right to receive the capital of the *rentes constituées* to be established under the said Act, such *rentes* may be redeemed without the consent of the Seignior by payment of the capital thereof to the Seignior or to his Agent either on the day on which such *rente* shall annually become due or on any one of the seven days immediately following ; and whenever the capital of any such *rente* shall have been duly tendered to any such Seignior, or to his Agent, on any one of the said days, and the same or a receipt therefor, shall have been refused, such *rente* shall become redeemable at any time thereafter. (18 V. c. 103, s. 1.)

48. The *Censitaires* in any Seignior may at any time redeem by one payment all the said *rentes constituées* then remaining in the Seignior, and in such case the redemption money shall be paid to the Seignior, if there be then no opposition filed as aforesaid and in force ; and if there be such opposition, then it shall be paid to the Receiver General, and shall be dealt with in all respects as money paid to him under the next preceding section : and the paying of such redemption money shall always be one of the purposes for which money may be raised on the credit of the Consolidated Municipal Loan Fund for Lower Canada, under any law in force for raising money on the credit of such Fund : and the redemption money under this Section shall always be the capital sum of which the *rentes* redeemed shall be equal to the legal interest, unless another rate be agreed upon by the *Censitaires* and a Seignior having the right to such redemption money, for his own use. (18 V. c. 3, s. 29, as amended by 18 V. c. 103, s. 1.)

12. MISCELLANEOUS PROVISIONS.

49. No sale under Writ of Execution (*par décret*) shall have the effect of liberating any immoveable property then or theretofore held *à titre de cens*, and so sold, from any of the rights, charges, conditions or reservations established in respect of such immoveable property in favor of the Seignior, due before the completion of the Schedule of the Seignior in which such property lies, or from any *rente constituée* payable thereon under such Schedule, but every such immoveable property shall be considered as having been sold subject thereafter to all such rights, charges, conditions or reservations, without its being necessary for the Seignior to make an opposition for the said purpose before the sale. (18 V. c. 3, s. 30.)

50. If any opposition *afin de charge* be made for the preservation of any of the rights, charges, conditions or reservations mentioned in the next preceding section of this chapter, such opposition shall not have the effect of staying the sale, and the Opposant shall not be entitled to any costs thereon, but it shall be returned into Court by the Sheriff after the sale, to be dealt with as to law may appertain. (18 V. c. 3, s. 31.)

51. The Seignior of whom any land the tenure of which has been commuted under this Act, was held, shall be maintained, in his privileges and hypotecs on the land, for the payment of all arrears of Seigniorial rights lawfully due at the time of such commutation. (18 V. c. 3, s. 32.)

13. CERTAIN LANDS DECLARED TO BE AND TO HAVE BEEN HOLDEN IN FRANC-ALEU ROTURIER.

52. All lands which any Seignior has, by any Act (*Acte*) or Deed in writing heretofore executed, released or agreed to release from all Seigniorial rights in consideration of the payment of any sum of money or of any annual rent, are hereby declared to be and to have been from the day of the date of every such Act (*Acte*) or Deed, free from all such Seigniorial rights and holden in *franc-aleu roturier*; but the Commissioners, for the purpose of making the Schedules of Seigniories in which any such lands are situate, shall deal with all such lands as if held *en roture*, and when the same are liable to an annual rent, shall establish and specify in the Schedule the capital of every such rent, in order that the same may be redeemed by the person liable therefor, in the same manner as any *rente constituée* established by this chapter. (18 V. c. 3, s. 33.)

53. All lands upon which mortmain dues (*des droits d'indemnité*) have been paid to any Seignior, and which have not been sold or conceded since such payment to parties holding otherwise than in mortmain, are hereby declared to be and to have been from the day of the date of such payment or of any Act (*Acte*) or Deed in writing, binding the owner to pay the same, released from all Seigniorial dues and duties and held *en franc-aleu roturier*, but subject to the payment of a *rente constituée* equal to the *cens* and rent legally due thereon. (18 V. 3, s. 34.)

14. NO GROUND RENT ON LANDS HELD BY A FREE TENURE TO BE IRREDEEMABLE.

54. No lands held in Free and Common Soccage or *en franc-aleu roturier*, shall be charged with any perpetual irredeemable rent; and whenever any such rent shall be so stipulated, the capital thereof may be at any time redeemed at the option of the holder of the land charged therewith, on payment of the capital of such rent calculated at the legal rate of interest; and any stipulation in any deed of conveyance (*translatif de propriété*) of any such land, tending to charge the same with any mutation fine or any payment in labor, or tending to entail upon the holder of any such land, the duty of carrying his grain to any particular mill, or any other feudal duty, servitude or burden whatsoever, shall be null and void. (19, 20 V. c. 53, s. 18.)

15. EXTENT OF THIS CHAPTER.

55. None of the provisions of this Act shall extend to the wild and unconceded lands in Seigniories held by the Crown in trust for the Indians, nor to the Seigniories held by the Ecclesiastics of the Seminary of St. Sulpice of Montreal, nor to either of the Fiefs Nazareth, Saint Augustin, Saint Joseph, Closse and Lagauchetière, in the city and county of Montreal, nor to any other *arrière-fief* depending upon (*relevant de*) any of the said Seigniories; nor shall they apply to the Seigniories of the late Order of Jesuits or other Seigniories held by the Crown and not above mentioned, nor to the Seigniories held by the Principal Officers of Her Majesty's Ordnance, except only in so far as hereinafter provided. (18 V. c. 3, s. 35, as amended by 18 V. c. 103, s. 7, and 19, 20 V. c. 53, ss. 11, 12, 13.)

16. AS TO CROWN SEIGNORIES.

56. Schedules may, if the Governor see fit so to direct, be made for the Seignories held by the Crown and the revenues whereof belong to the Province, including the Seignories of the late Order of Jesuits, in like manner and under the same provisions as for other Seignories (omitting such particulars as cannot apply to Crown Seignories), and with like powers to the Commissioners: Provided that no part of the appropriation in aid of the *Censitaires*, shall be applied towards the redemption of Seignorial rights in such Crown Seignories, nor shall any such Schedule be deposited in the manner provided in the *twenty-fifth* section of this chapter, or operate any compulsory commutation of tenure, or substitution of any *rente constituée* for the Seignorial rights and dues in such Seignory; but the Governor in Council may, if he see fit, allow to the *Censitaires*, in the said Seignories, upon commutation of their lands, equal advantages and relief with those which the *Censitaires* in other Seignories are found to obtain under this chapter, and the Schedules made under this section shall serve as the basis for calculating the extent of such advantages and relief to be so allowed to the *Censitaires* in the said Crown Seignories. (18 V. c. 103, s. 8.)

57. No *Lods et Ventes* shall be demanded from purchasers in the said Seignories held by the Crown, upon purchases made since the thirtieth day of May, one thousand eight hundred and fifty-five;

2. The Crown Agents for the said Seignories shall, in the collection of the revenue of the Crown therefrom, and in regard of all other rights of the Crown as Seigneur of such Seignories, take notice of and be guided by the answers and decisions of the Special Court under the Seignorial Act of 1854, upon the questions of Her Majesty's Attorney General for Lower Canada, except in so far as such rights may have been reduced or modified by any order or orders of the Governor in Council;

3. All unconceded lands and waters in the said Seignories shall be held by the Crown in absolute property, and may be sold or otherwise disposed of accordingly, and when granted shall be granted in *franc alev roturier*. (19, 20 V. c. 53, s. 11.)

58. This chapter shall apply to any lands held *en franc alev noble*, and granted under and by virtue of the Act of the Parliament of the late Province of Lower Canada passed in the third year of the Reign of His late Majesty King George the Fourth, and intitled, *An Act for the relief of certain Censitaires or Grantees of La Salle and others therein mentioned possessing lands within the Township of Sherrington*; but inasmuch as the decision of the Special Court constituted under the sixteenth section of the said Seignorial Act of 1854, cannot affect the said lands, therefore the Schedule relating thereto shall be valid although completed and deposited without waiting for the decision of the said Special Court. (18 V. c. 103, s. 7.)

17. UNSETTLED SEIGNORIES.

59: And inasmuch as the following Fiefs and Seignories, namely: Perthuis, Hubert, Mille Vaches, Mingan and the Island of Anticosti, are not settled, the tenure under which the said Seignories are now held by the present proprietors of the same respectively, shall be and is changed into the tenure of *franc alev roturier*: The difference in value between each of the said Seignories as heretofore held and the same Seignory when held in *franc alev roturier*, and also the value of the casual and other rights of the Crown in the said Seignories, shall be ascertained and entered in the Schedule of the Seignory, and the amount of the whole shall, upon the filing of the said Schedule, become due and payable by the Seigneur to the Crown, and shall form part of the fund appropriated in aid of the *Censitaires*; And whenever the Governor in Council is satisfied that any other Fief or Seignory is wholly unconceded, the Governor may issue a Proclamation declaring that such Fief or Seignory shall thenceforth be subject to the operation of this section: and from and after the date of the publication of any such Proclamation in the *Canada Gazette*, the tenure under which the *fief* or Seignory or Fiefs and Seignories therein mentioned are held, shall be changed into the tenure of *franc alev roturier*; and in making the Schedules thereof, the Commissioners shall deal with such Fiefs or Seignories in every respect as if they had been specially mentioned in this section. (19, 20 V. c. 53, s. 10.)

18. ARREARS SAVED.

60. Nothing herein contained shall affect the right to, or the recovery of, any arrears of Seigniorial dues accrued before the passing of the Seigniorial Act of 1854, or shall give any person whomsoever any right of action for the recovery of money or other value paid by him or his predecessors in the form of rents or other Seigniorial dues, or for the recovery of damages which he pretends to claim for the privation of any right of which he deems that he has been illegally deprived by his Seignior, unless he would have had such right of action if without this Act. (18 V. c. 3, s. 26, *corrected for time.*)

19. INTERPRETATION.

61. The word "Seignior," wherever it occurs in this chapter, shall be construed as meaning any part of a Fief, *arrière-fief* or Seignior held by a single individual, or by a Corporation, or held by several persons in common (*par indivis*) as well as the whole of a *fief*, *arrière-fief*, or Seignior, except in such parts of this Act in which the words "*arrière-fief*" and "*Seignior*" are made use of to distinguish the *Fief dominant* from the *fief servant*; and the word "Seignior" shall be construed as meaning any Corporation, or any sole proprietor, and all persons who are proprietors in common (*par indivis*) of any part of a *Fief*, *arrière-fief* or Seignior, as well as any person or Corporation, being sole proprietor, and all persons, proprietors jointly and *par indivis* of the whole of any such *Fief*, *arrière-fief*, or Seignior: the words "Seignior" and *Censitaire*" shall apply to the owner of any *rente constituée* created under this Act, and the person charged therewith, respectively, as well as to the owner of and person charged with the rights and duties represented by such *Rente*; the words "Seigniorial Rights," whenever they occur in this Act, shall include and be construed as including all rights, duties, charges, obligations, and Seigniorial or feudal dues whatsoever; the word "Land" shall mean any lot, piece or parcel of land, and shall include the buildings thereon constructed, and all its appurtenances. (18 V. c. 3, s. 27.)

20. RESERVATION OF RIGHT TO MAKE FURTHER LEGISLATIVE PROVISION.

62. The Legislature reserves the right of making any provision, declaratory or otherwise which may be found necessary for the purpose of fully carrying out the intent of this Act; which intent is declared to be,—to abolish as soon as practicable, all feudal or Seigniorial rights, duties and dues, substituting therefor *rentes constituées* of equal value,—to grant to the Seignior a fair indemnity, and no more, for all the lucrative rights which the law gives him, and which this Act will abolish,—to preserve the rights of third parties, unless such rights be lost by their own neglect or laches;— and to aid the *censitaire* out of the Provincial Funds in the redemption of those Seigniorial charges which interfere most injuriously with his independence, industry and enterprise; and every enactment and provision of this Act shall receive the most liberal construction possible with a view to ensure the accomplishment of the intention of the Legislature, as hereby declared.

FORM A.

Public notice is hereby given that the Schedule (*of the fief, arrière-fief or of the Seignior*) of (*name of fief, arrière-fief or Seignior*) shewing the *rentes constituées* into which the feudal and Seigniorial rights, dues, charges, obligations and rents due, and payable upon each land in such (*fief, arrière-fief or Seignior*) are converted, is completed, and that a triplicate thereof has been deposited in the office of the Receiver General, and another in the office of the Superior Court in the District of _____ and that the third remains in the possession of the undersigned, (*Here give the name of the locality in which the Commissioner is sitting, and the date.*)

A. B. } Commissioner under
the Seigniorial Act.

CAP. IX. COMMUTATION OF SEIGNORIAL TENURE IN CERTAIN SEIGNORIES.

1. Certain Seignories in and near the City of Montreal.

1. The Seignior or Seigniors of any of the Fiefs Nazareth, St. Augustin, and St. Joseph, in the City and County of Montreal, respectively, may commute with any person body politic or corporate, or other party holding any real property *à titre de cens* or *en roture*, for the release and extinguishment of all *droits de lods et ventes*, *cens et rentes*, and other Seignorial burthens whatsoever, to which such property is liable, for such consideration and indemnity as by such Seignior and the party desirous of obtaining such Commutation shall be mutually agreed upon; and from and after the passing of a Notarial Instrument for effecting the Commutation so agreed upon, the *droit de cens et rentes*, *lods et ventes*, *droit de retrait*, and all other Seignorial rights, dues and burthens whatsoever, on the property to which such Commutation relates shall be forever released and extinguished, and such property shall be thenceforth holden by the Tenure of *Franc Aleu Roturier*, according to the Laws of Lower Canada, and shall never again be granted, or holden by any Seignorial or Feudal Tenure whatsoever: Provided always, that nothing herein shall exempt the Seignior of any of the said Fiefs, from the operation of any general law which may be hereafter passed for effecting a general commutation of Seignorial Tenure throughout Lower Canada, and including them. (7 V. c. 27.)

2. Any Religious Community being the Seignior or entitled to any Seignorial Rights in or with regard to the said Fiefs Nazareth, St. Augustin and St. Joseph, or of any of them, may invest any moneys to be received as the consideration or indemnity for the commutation of any such Seignorial rights either as a redeemable ground rent on the land of which the tenure shall be commuted, with the same privilege for the security thereof, as they would have had for the rights commuted, or in real property lying within this Province, or in any stocks or public securities in this Province or in any part of the United Kingdom of Great Britain and Ireland, and may hold such real property, stocks, or securities, and may alienate and dispose of the same and acquire others in their stead, without Her Majesty's Letters of Mortmain, or other authority than this chapter; but no other moneys than such as shall arise from the commutation aforesaid, or from the alienation of property purchased with such moneys, shall be so invested under the authority of this Act. (8 V. c. 43.)

2. Optional Commutation in private Seignories to which the Seignorial Acts do not apply.

3. Whenever any *Censitaire* or owner of Land held *en roture* in any Seignory in Lower Canada, (Seignories in mortmain also included,) desires to commute the Tenure thereof into that of *en franc-aleu roturier*, and for this purpose has made and concluded an agreement, in writing before Notaries, with the Seignior in whose *censive* the land is situate, as to the value or indemnity to be paid to such Seignior, for the release of the land from all Seignorial dues, and charges affecting the same, and its commutation into the Tenure *en franc-aleu roturier*, and such agreement has been duly enregistered in the Registry Office of the place wherein the land is situate, the commutation of the Tenure of such land into the Tenure *en franc-aleu roturier*, shall be held to be perfected the tenure thereof shall forever thereafter be deemed to be that of *franc-aleu roturier*, and it shall accordingly be disincumbered and free of all Seignorial dues and charges of every kind, for ever thereafter, as are lands holden in free and common soccage in the Townships in Lower Canada. (8 V. c. 42, s. 1.)

4. The commutation money agreed upon may, if it be the option of the parties, remain secured, *à titre de constitution de rente, à rente foncière*, or otherwise, according to the stipulation between the parties, upon the land, the tenure whereof has been so commuted, with the same privilege, *ex causâ*, and as *bailleur de fonds*, and preference thereupon over all other hypothecary claims affecting the same, as such Seigneur would by law be entitled to for the recovery of any Seigniorial dues upon such land previous to the commutation of the tenure thereof. (S V. c. 42, s. 2.)

5. Every Seigneur who pursuant hereto, has commuted with respect to any land in his Seignior, shall give in to the Receiver General of the Province, in the course of the first ten days of January next after the commutation, an authentic copy of the Notarial agreement or *Acte* of every such commutation which during the preceding year he has agreed to, accompanied by an attestation on oath (which oath any Justice of the Peace may administer,) endorsed upon the same, that such Notarial *Acte* specifies the whole terms upon which the commutation has been made, and every Seigneur having so accounted for the commutations with respect to any land in his Seignior, shall pay over on or before the first day of July next ensuing the actual receipt of the principal sum agreed upon as the commutation money, (unless the same be remitted to him as hereinafter provided,) into the hands of the Receiver General of the Province for the public uses thereof, an amount equal to five per cent. upon the total amount of commutation money he has received or agreed upon, as the proportion thereof due to the Crown as Seigneur *suzerain* or *dominant*. (8 V. c. 42, s. 3): Provided always, that no Religious or Ecclesiastical Community, or other Corporate Body in Lower Canada, holding in mortmain any Seigniories therein, shall be required to give in to the Receiver General any authentic copy of any notarial agreement executed in virtue of the provisions of this chapter, or be liable to pay over into the hands of the said Receiver General, any portion of the commutation money, received in pursuance of any such agreement, or shall incur any penalty or forfeiture for neglecting or refusing so to do. (12 V. c. 49, s. 1.)

6. Every proprietor of any *Arrière Fief* holding under any *dominant* Seigneur other than the Crown, who pursuant hereto, has commuted with respect to any land in his *Arrière Fief*, shall give in to his said Seigneur dominant, in the course of the first ten days of January next after the commutation, an authentic copy of the Notarial agreement or *Acte* of every such commutation which during the preceding year he has agreed to, accompanied by an attestation on oath, (which oath any Justice of the Peace may administer,) indorsed upon the same, that such Notarial *Acte* specifies the whole terms upon which the commutation mentioned in it has been made, and every proprietor of any such *Arrière Fief*, having so accounted for the commutations with respect to any land in his *Arrière Fief*, shall pay over on or before the first day of April then next ensuing, (unless the same be remitted for the whole or in part by the Seigneur *dominant*,) into the hands of the said Seigneur *dominant*, an amount equal to one fifth of the total commutation money received or agreed upon as aforesaid, as the proportion thereof due to the said Seigneur *dominant*. (8 V. c. 42, s. 4.)

7. The said Seigneur *dominant* shall in like manner pay over on or before the first day of July then next ensuing (unless the same be remitted to him, as hereinafter mentioned,) into the hands of the Receiver General of the Province, for the public uses thereof, *one-twentieth* of the total amount of commutation money to which he is entitled, or has agreed to receive as the amount due to him as Seigneur *dominant*, and such Seigneur *dominant* shall, at or before the time of paying over such sum of money to the Receiver General, make an attestation under oath, (which oath any Justice of the Peace may administer, that the said sum of money is the *one-fifth* of the total amount) of commutation money or indemnity by him received or agreed upon as such Seigneur *dominant*: Provided always, that nothing in this and the next preceding section shall prevent any proprietor of any *Arrière Fief* holding under any other Seigneur, from making agreement in writing before Notaries with his Seigneur *dominant*, for the total extinction of all Seigniorial dues and charges affecting the same, and belonging to such Seigneur *dominant*, previous to commutation by him with his own *Censitaires*, and to agree for the payment of a certain sum or for a *rente constituée* or *rente foncière*, or otherwise, as the commutation money to such Seigneur *dominant* for all his rights and title therein; and such Seigneur *dominant* shall, on receipt of the sum of money so agreed upon, pay over to the Receiver General the *one-twentieth* part thereof at the same time, with

the same formalities and with the same attestation on oath as hereinbefore mentioned and required: Provided also, that in all cases of immediate payment by the Seignior *servant* to the Seignior *dominant*, of the commutation agreed upon between them, or of the one-fifth part of the consideration of any commutation between the Seignior *servant* and his *Censitaires*, the Seignior *servant* shall, in the manner hereinafter provided in the like case as to *Censitaires*, deposit the amount coming to the Seignior *dominant* in the office of the Prothonotary, and with the like observances, and that the same proceedings shall be had thereupon as is in that case by this chapter required, with the view of saving the rights of third parties, and with the like effects as respects the land, the tenure of which has been commuted. (8 V. c. 42, s. 5.)

8. Any Seignior having commuted, who neglects or refuses to transmit an authentic copy of every Notarial agreement for any such commutation according to the requirements of this Act, shall, for every such neglect or refusal, forfeit to Her Majesty, double the sum which by reason of such commutation he would, under this Act, be liable to pay to the Crown. (8 V. c. 42, s. 6.)

9. The Governor of this Province may remit, in all cases of commutation under this Act, (if to encourage commutation he sees fit) the proportion which by reason of such commutation will be payable to the Crown; and he may also, if he see fit, either in consideration of the loss or disuse of any Seigniorial rights from whatsoever cause, formerly appertaining to Seigniories in Lower Canada, or solely with a view to promote commutation give up to any Seignior desirous of promoting a commutation of the tenure of lands within his Seigniorie, all claim to any indemnity to the Crown, or may accept a smaller proportion than that hereinabove mentioned as the indemnity to the Crown, and such indemnity being given up, or the sum determined and fixed as the indemnity to the Crown, being paid to the Receiver General, the Seignior in whose favour such abandonment is made, or who has paid such indemnity, shall thereafter be free to commute for any and all lands within his Seigniorie, without being therefor in any manner accountable to the Crown. (8 V. c. 42, s. 7.)

10. All moneys arising from such commutation as aforesaid, of the tenure of any land, whether the same be paid to the Seignior, or remain as the principal of a *rente constituée* or *rente foncière*, or otherwise, shall be held to be immovable property by fiction of law, and deemed *propres* belonging to any party to whom the Seigniorie in which such land is situate is *propre*, and shall accordingly be subject to investment, and being so invested *bonâ fide*, with a proper declaration of *emploi*, shall be substituted for the rights they represent, and shall have the same destination as such rights would have had. (8 V. c. 42, s. 8.)

11. And for the protection of the rights of third parties,—The amount agreed upon by the *Censitaire* and Seignior as the indemnity to such Seignior for commutation of the tenure as aforesaid, of any land, shall, when *to be paid*, be, at the diligence of the *Censitaire*, deposited within thirty days next after the day of commutation, with an authentic copy of the Notarial instrument relating thereto, in the office of the Prothonotary of the Superior Court for the District wherein the land is situate, (and of which deposit it shall be the duty of the Prothonotary to grant him *Acte*,) thereto abide the order or judgment of the Court disposing thereof, in case any hypothecary claim affecting the same is presented before the said Court: Provided always, that such Seignior may be allowed to take up and retain the said commutation money so deposited, on giving a bond (for the taking of which bond the Prothonotary shall be entitled to a fee of one shilling and three pence,) or security to the satisfaction of any one of the Judges of the said Court, that the amount will, within twenty days next after the rendering of any order by the said Court, (whether notice of such order be or be not served upon or given him,) directing the payment thereof to any hypothecary claimant upon the same, be repaid into the Prothonotary's office, to be disposed of according to such order. (8 V. c. 42, s. 9.)

12. The Prothonotary shall cause notice to be given three times at least in the course of the four months next after the day of such deposit, in the English and French languages, in the *Gazette* and in some other newspaper or newspapers to be named by the Court or any of the Judges thereof, printed in the District wherein the land commuted is situate, of such commutation; and by *criée* or proclamation as in the case of *décret* or Sheriff's sale, three times during the aforesaid term, at the Church door of the Parish wherein such land is situate immediately after divine service in the forenoon, and if there be no Church, then at the most public place in the Seignior, designating the land, and requiring every person having any hypothecary claim affecting the commutation money, to file the same at his office within the fifteen days next after the expiration of the said four months' notice, to the end that the same be taken into consideration by the Court and disposed of in due course of law, and that in default of filing the same within the appointed time, all such claims will thereafter be foreclosed; and accordingly all claims that might in anywise have affected such commutation money, but which shall not be presented within the time appointed, shall be foreclosed, and those filed shall be collocated for payment according to their order of priority or privilege, by judgment of the Court, and be paid from and out of the commutation money, in so far as the same shall suffice therefor. (8 V. c. 42, s. 10.)

13. For the filing of such Notarial instrument, the Prothonotary shall be entitled to the fee of one shilling, and for registering the same in a Register *paraphé*, (which he shall keep for the purpose,) at the rate of three pence per hundred words, and at the same rate for certified copies thereof; and to such Register every person requiring it shall, during office hours, have access gratis; and the said fee and charges, and all costs and expenses of printing pursuant hereto, shall be taxed in each case at the lowest rate at which, consistently with justice, the same can be fixed, by some one or more of the Judges of the said Court before whom the proceeding is pending, and shall be defrayed by the parties commuting in equal proportions, unless they otherwise agree; but all costs and charges upon, or incidental to, any claim upon the commutation money, shall be paid by the claimant or the Seignior having commuted, as to justice it appertains and as the Court seized of the case shall award. (8 V. c. 42, s. 11.)

14. If no hypothecary claim as aforesaid be filed within the appointed time, a memorandum to that effect shall be entered upon the Register aforesaid, and the bond given (if any) by the Seignior, shall be cancelled, and a memorandum to that effect indorsed upon the same by the Prothonotary, and be in like manner entered upon the said Register, and the proceeding shall thereby be closed; and the Prothonotary shall pay all moneys which by any order of Court in any such case are directed to be paid to any claimant, and shall take receipts therefor, making mention of the same in the said Register, and of the dates thereof, for future reference, for which service he shall be entitled to such compensation as the Court shall allow. (8 V. c. 42, s. 12.)

15. From and after the filing of such Notarial instrument, and deposit of the commutation money agreed upon, in the office of the Prothonotary, the actual and every future owner (*détenteur*) of the land, the tenure whereof is so commuted, and in like manner the land also, shall thenceforward for ever cease to be liable to any hypothecary claim of any description, created or caused by the Seignior of the Seignior wherein such land is situate, or by any of his *auteurs* or predecessors having owned such Seignior. (8 V. c. 42, s. 13.)

16. Whenever any *rente constituée* or *rente foncière* created under this Act between Seignior and Seignior, or between Seignior and *Censitaire* is redeemed by actual payment, whether by operation of law and in a compulsory manner or by mutual agreement, such redemption shall become subject to the same deposit of the principal thereof in the Superior Court as hereinbefore provided to protect the rights of third parties, and the same proceedings shall be had thereon at the diligence of the person having to pay the said principal: Provided always that such *rente constituée* or *rente foncière* shall be considered in matters of succession and in judicial proceedings, and to all other intents and purposes whatever, as being a territorial right attached to the domain of the Seignior, to the Seignior of which it is payable, and shall not be liable to be transferred, seized, sold, alienated, hypothecated or mort-

gaged apart from the said Seignior, but shall form part of the same, and shall also be transferred, seized, sold, alienated, hypothecated, mortgaged and otherwise legally dealt with, along with the said Seignior; and the register to be kept by the Seignior as hereinafter mentioned shall be considered as one of the titles of the said Seignior. (8 V. c. 42, s. 14.)

17. The several religious or ecclesiastical communities in Lower Canada, holding in mortmain Seigniories therein, may invest if they see fit, in any lands in this Province, or in any public or private securities in the United Kingdom or in this Province, any sum of money that may accrue to them from any commutation under this Act. (8 V. c. 42, s. 15.)

18. Any rent constituted (*rente constituée*) as the consideration for such commutation as aforesaid, shall be redeemable at the option of the land owner, by one payment, or as agreed upon, including all arrears, in cases where the Seignior has the right of alienating such rent, the formalities and requirements hereinbefore mentioned with respect to *the ready payment* for the liberation of all hypothecary claims being observed: but if the seignior be entailed (*substituée*) or held in mortmain, or by a Corporation; or the commutation be made on the part of the Seignior, by a tutor, curator, or administrator, the rent and arrears only shall be received, and the principal sum shall only become payable in the cases by law provided, or when the party to whom the rent is payable, has power of alienating the Seignior wherein it may be due: Provided always, that in all cases where the party with whom, as the Seignior or as the representative of the Seignior, the commutation is effected, has not the power of alienating any seigniorial right commuted, the commutation of such right shall be made for an annual rent, and not for a sum payable at once, unless the Seignior be held in mortmain, in which case the commutation may be for a sum payable at once, and such commutation may be made without any previous authority or formality other than such as is required for the transfer of property from one person to another, and no part of the commutation money shall be payable to the Crown. (8 V. c. 42, s. 6, as amended by 12 V. c. 49, ss. 1 and 2.)

19. Tutors, curators, and administrators of any kind, may effect any such commutation as aforesaid, on being thereunto authorized in the manner required by law to enable them to alienate the real property of the parties they represent but not otherwise; and the owners and possessors of any entailed seigniorial rights, the absolute property whereof is entailed on their children or descendants, born or to be born, or on the children or descendants, born or to be born of their collateral relatives, descendants of the party by whom the entail was created, or on other persons born or to be born, may commute such rights on an advice of relatives (*avis de parens*) duly homologated according to law; but if the absolute property of such rights be entailed on persons not descendants of the then possessor, then no such commutation shall be effected without the consent of a curator to the entail duly appointed in the usual form: Provided that in all cases mentioned in this section which shall not apply to Seigniors holding in mortmain the commutation shall be made for an annual rent, and not otherwise. (8 V. c. 42, s. 17, as amended by 12 V. c. 49, ss. 1, 2.)

20. Any person representing any party holding in mortmain or any Corporation, and any tutor, curator or administrator, or the possessor of an entailed estate, who on account of any such commutation collusively receives for his advantage, or for that of any third party, any sum of money, promise or valuable consideration, over and above the rent stipulated, and any Seignior in possession who in effecting any such commutation assumes to alienate rights with regard to which he has no power of alienation, and who under such pretence receives any principal sum for such commutation, when in fact such principal sum ought to be received by some other party or converted into an annual rent, may on being legally convicted of such offence be condemned to pay a penalty equal to double the amount which he has so received collusively under such false pretence; and any possessor of any land *en roture* or *censitaire*, who collusively pays to any such person or Seignior any sum of money in order to obtain any such commutation as aforesaid with intent to defraud any other party, may be condemned to a penalty equal to double the sum so received; such penalty to be imposed in either case by the Court before whom such offender has been convicted. (8 V. c. 42, s. 18.)

21. The Directors and Principals of any Community or Corporation holding estates in mortmain, and all curators, tutors and administrators, and all possessors of entailed estates, shall take all necessary precautionary measures for the conservation of any such rents as aforesaid in which the parties they represent may be interested; and in any case of compulsory redemption of such rent, shall, within one year thereafter reinvest the principal sum in a secure and profitable manner, for the benefit of the Corporation or persons therein interested. (8 V. c. 42, s. 19.)

22. Whenever any such commutation has taken place, all arrears due on the property to which it relates, shall be commuted and extinguished, unless the contrary be stipulated; and in the case last mentioned, or where such arrears are valued apart, or remain as a charge upon the property, the precise amount shall be ascertained and mentioned in the deed of commutation; but no such arrangement shall affect any arrears on any other property held by the same party: When any such commutation is effected on a part only of any land *en roture* or grant, a proportionate part of the arrears due on the whole shall be held to be commuted and extinguished: and when a part only of any such land *en roture* or grant is so commuted, the Seigniorial charges and dues on the part uncommuted shall be proportionally reduced. (18 V. c. 42, s. 20.)

23. Nothing in this chapter shall affect any commutation of Tenure effected in any Seigniority held by the Ecclesiastics of the Seminary of Saint Sulpice, under the Ordinance in that behalf. (18 V. c. 42, s. 21.)

24. No commutation shall be effected for a part only of the Seigniorial rights affecting any property: but such commutation shall be in all cases full and perfect, so as to produce a change of Tenure as aforesaid. (8 V. c. 42, s. 22.)

25. Those who hold in mortmain, and Corporations, tutors, curators and administrators, possessing property held *en roture*, the tenure whereof can be commuted with advantage to those whom they represent, may effect such commutation by paying the consideration out of the moneys of those whom they represent, or may validly bind them to the payment of the rent stipulated in the deed of commutation, provided they observe the formalities required by law in the alienation of the property of such party holding in mortmain or Corporations, or of those whose rights such tutors, curators or administrators represent. (8 V. c. 42, s. 24.)

26. The Seignior shall keep a Register, in which shall be entered at full length, all deeds of commutation, and all receipts for principal sums received for the redemption of any rent constituted, as the consideration of any commutation, and all judgments relating to any such commutation, with a proper index; and such Register shall be open to all persons at all seasonable times; and the Seignior, or the person in whose keeping such Register shall be, may demand six pence currency for each communication of any such Register; and copies of all entries in such Registers shall be delivered to any party interested, by the Seignior on payment of three pence currency, for each hundred words; and such Register shall be held to be a public memorial made for the common benefit of the Seignior and his *Censitaires*, and placed in the keeping of the Seignior. (8 V. c. 42, s. 25.)

27. All moneys paid to the Receiver General under this chapter, shall form part of the Consolidated Revenue Fund of this Province, and shall be accounted for to Her Majesty, through the Lords Commissioners of Her Majesty's Treasury, in such manner as Her Majesty may direct. (8 V. c. 42, s. 26.)

3. *Commutation in the Crown Seigniories.*

28. Whenever, pursuant to the Act passed in the third year of the Reign of King George the Fourth, by the Imperial Parliament, intituled, *An Act to regulate the Trade of the Provinces of Lower and Upper Canada, and for other purposes relating to the said Provinces*, any person holding land *à titre de cens et rentes*, within the censive of any Seigniority of Her Majesty, or belonging to the Estates of the late Order of Jesuits, desires to obtain a release of all Seigniorial rights arising therefrom, and to commute the tenure of such land, into free and common soccage, and applies for this purpose to the proper agent as hereinafter mentioned, for the Seigniority in which such land is situate, setting forth in his application by writing

the description, according to his titles, of the land, the tenure whereof he desires to commute, exhibiting also therewith his titles, and requesting such commutation, and has paid the sum mutually agreed upon by such agent and the applicant, as the commutation money on the intended commutation, or ascertained in manner hereinafter provided, and has also paid or secured the payment of all arrears of Seignorial rights, dues and duties which he oweth to Her Majesty upon the said land, or with which it may then be chargeable in favor of Her Majesty, such agent shall execute a release by *Acte* duly executed before Notaries as nearly as may be in the form prescribed in the Schedule of this chapter (for which the Notary shall be entitled to a fee of twenty shillings and no more from the applicant) in the name of Her Majesty, of the said land from all Seignorial rights and dues in favor of Her Majesty, and declaring the tenure of the said land to be by such release for ever thereafter commuted into that of free and common soccage; and such *Acte* of Commutation shall be to all intents equivalent to a grant of such land from Her Majesty, as provided by the above recited Act of the imperial Parliament, and the commutation of tenure of the said land shall hereby be perfected, and it shall be for ever hereafter held in free and common soccage, according to the intent of the said Act. (10, 11 V. c. 111, s. 1.)

29. The Governor of this Province may appoint in and for each and every Seigniorie in this Province, appertaining to Her Majesty, a fit person to be agent for the purposes of this chapter, and may give such directions for his guidance in the performance of his duties, as by and with the advice of Her Majesty's Executive Council he deems expedient. (10, 11 V. c. 111, s. 2.)

30. For all the duties performed by any such agent with respect to any such commutation, he shall be entitled to a fee of thirty shillings currency, and no more, from the person applying for the commutation, for whom he shall not in any case of commutation act as agent. (10, 11 V. c. 111, s. 3.)

31. The commutation money for *cens et rentes* shall be the principal sum of money of which the said *cens et rentes* would be the yearly interest reckoned at the legal rate. (10, 11 V. c. 111, s. 4, as amended by 19, 20 V. c. 53, s. 11, abolishing lods et ventes in the Crown Seigniories. Sect. 5 also relates only to the Commutation of lods et ventes, and can have no effect now.)

32. From and after the voluntary settlement or adjustment as aforesaid, touching the said commutation money, and payment thereof (or tender of the same) to the proper agent, or from and after a declaration signified to the proper Agent, by the *Censitaire*, of his option, that such commutation money do remain as a charge upon such Land as a redeemable quit rent (*à rente constituée et rachetable*;) and execution conformably thereto of the release by Notarial *Acte*—all and every the *droits de cens et rentes, droit de banalité de moulin, droit de retrait, exhibition de titres*, and all other feudal or seignorial rights whatever of Her Majesty upon, for or in respect of the Land as to which such commutation is required, shall accordingly be for ever commuted, released and extinguished; and such Land shall be holden and thenceforth for ever by the tenure of free and common soccage according to the above recited Act of the Imperial Parliament, and shall never again be granted, surrendered or holden by any *seigneurial* or feudal tenure whatsoever: Provided always, That nothing hereinbefore contained shall discharge the Land, the tenure whereof is so commuted from the rights, hypothecs, privileges, reservations and demands of Her Majesty, in and upon the same for the security and recovery of any commutation money remaining as a charge on such Land at a redeemable quit rent as aforesaid, for the security and recovery of which commutation money, Her Majesty shall have the same legal recourse, privilege and priority of hypothec as Her Majesty would have had for any right extinguished by such commutation, or for the security and recovery of any arrears of seignorial dues accrued before such commutation. (10, 11 V. c. 111, s. 6.)

33. There shall not, for arrears of *lots et ventes* accrued and due to Her Majesty before the abolition of *lots et ventes* in Crown Seignories, be demanded or taken for each mutation in the ownership of any lands and tenements situated within the City of Quebec, and of which, with the buildings thereon erected, the value was equal to or exceeded the sum of Five hundred pounds, more than one twentieth of the price and consideration for each sale or conveyance; nor for each mutation in the ownership of any lands or tenements in any censive of the Crown out of the limits of the said City, shall there be exacted or demanded more than one sixteenth part of the price and consideration of the sale and conveyance of such last mentioned lands and tenements; nor for each mutation in ownership in any lands or tenements situated within the limits of said City of Quebec, of which, with the buildings thereon erected the value shall be less than Five hundred pounds currency, shall there be exacted or demanded more than one sixteenth part of the price and consideration for each sale or conveyance thereof; And further, all such arrears of *lots et ventes* accrued and due within the said City to Her Majesty on or before the Twenty-seventh day of December, 1847, according to the respective rates aforesaid, shall not be demandable from any person owing the same personally or hypothecarily, nor shall any such person indebted as aforesaid to a greater amount than Forty pounds currency be compellable to pay the same, except within seven years from the said day, in seven equal annual instalments: Provided always, that in default of any person to pay any such instalment after the same shall become due, the whole of such arrears of *lots et ventes*, according to the rates aforesaid, or the remaining unpaid instalments thereof, shall become immediately payable to Her Majesty by the person owing the same. (10 & 11 V. c. 111, s. 7. *But that part of this section from "And further" to the end, seems to be of no effect now.*)

34. All moneys arising from commutations pursuant to this Act, shall constitute a separate fund to be called "The Commutation of Tenures Fund," (those arising from the Jesuits Estates being kept always apart and distinct) and accounted for, and funded in such manner as may be provided; and an annual report of all such commutations in detail shall annually be laid before both Houses of the Legislature at each Session thereof. 10, 11 V. c. 111, s. 8.

35. All lands the tenure of which has been commuted under this chapter, or any other law in force in this Province, into the tenure in free and common soccage, shall be subject to the laws heretofore in force in Lower Canada with respect to testamentary dispositions, and to the grant, bargain, sale, alienation, conveyance, disposal of and descent of lands therein, and to the partitioning thereof among co-heirs, when the same are not devised by last will and testament, dower and other rights of married women in such lands, in the same manner as if held *en franc alou roturier*. (10, 11 V. c. 111, s. 9.)

36. Nothing herein shall apply to or affect in any manner the rights of Her Majesty, or of any person, body corporate or politic, other than such as are specially mentioned in this chapter, it not being thereby intended to alter or disturb any incumbrance, charge or liability of any kind other than such as are hereinabove specified, to which the land, the tenure whereof has been commuted, was subject, previous to such commutation. (10, 11 V. c. 111, s. 10.)

37. In this chapter, the word "Land" includes real or immoveable property of every kind,—the word "Seignior" includes *arrière-fiefs*,—and the word "*Censitaire*" includes any person or party holding land in a Seignior; and the words "Seigniorial rights and dues," include all feudal and Seigniorial charges and burthens whatsoever.

SCHEDULE.

FORM OF THE ACTE OR DEED OF COMMUTATION REFERRED TO IN THIS CHAPTER.

BEFORE us, the undersigned Notaries Public for Lower Canada, residing at _____ in Lower Canada, came and appeared _____ residing in the _____ the Agent duly appointed for the purposes hereinafter mentioned for the Seignior of _____ appertaining to Her Majesty (*as the case may be*) who, on the request to him made by (*name, occupation and residence.*) a party to these presents, and appearing also before us the said Notaries, to grant him (*or them*) in conformity with the Act hereinafter mentioned of the Imperial Parliament, and of the (*Title of the Revised Statutes of this Province*), a commutation of the *droits de cens et rentes*, and all feudal and Seigniorial burthens whatsoever to which he may be subject in

respect of a lot of land whereof he is proprietor and possessor, situate in the Seigniority of _____ and described in the Title Deed of him the said _____ as follows :
(Take in a description of the lot or lots.) The said lot appertaining to the said A by whom it was acquired from B by Deed, &c., and free from arrears of Seigniorial dues up to this date, (or being charged with the sum of £ _____ for arrears of *cens et rentes* and *lots et ventes* according to account this day adjusted) by these presents acting for and in the name of and on behalf of Her Majesty pursuant to Law as aforesaid, hath, from this day for ever acquitted, released and discharged the said lot of land of and from all *droits de cens et rentes, droit de banalité de moulin de retrait*, and all the feudal and Seigniorial rights whatsoever, to which the said lot is subject or liable, so that by these presents the tenure of the said lot of land is from this day for ever converted into that of free and common soccage, in conformity with the Act passed by the Parliament of the United Kingdom in the Third year of the Reign of His late Majesty King George the Fourth, intituled, *An Act to regulate the Trade of the Provinces of Lower and Upper Canada, and for other purposes relating to the said Provinces*, and shall never again be held and possessed by the said A his heirs and assigns under any other tenure whatsoever.

The said commutation, release and discharge are thus made, granted for and in consideration of the sum of (*for instance one hundred and eight pounds, six shillings and eight pence*) lawful current money, to wit : (*Eight pounds, six shillings and eight pence*) the principal sum representing the sum of *ten shillings* current money aforesaid, the amount of the *cens et rentes* payable in respect of the said lot or lots by virtue of and under the deed of concession, and the sum of (*one hundred pounds*), being the commutation money for all other Seigniorial rights, dues and burthens to which Her Majesty was heretofore entitled, which said sum of *one hundred and eight pounds, six shillings and eight pence* was forthwith paid and the receipt whereof is hereby acknowledged, (or is to remain at a quit rent *rente constituée rachetable à toujours*), redeemable in payments of not less than (*twenty-five pounds*) or (*fifty pounds*) each (or is payable at the end of two, three, four, &c., years) with legal interest to be paid thereon annually.

As to the arrears above mentioned, the said A obliges himself to pay them (*describe the terms of payment*) with legal interest (or without interest, as the case may be.)

For the security of the payment of the said arrears and commutation money to Her Majesty, Her Heirs and Successors, reserve is hereby made, without any novation or derogation whatever, of the same legal recourse, privileges and priority of hypothec as Her Majesty, Her Heirs and Successors would have had for any *droits de cens et rentes*, or other rights extinguished by the present commutation and represented by the said sum.

Done and passed in the year one thousand eight hundred and _____ on the _____ day of the month of _____
 The said _____ having signed with us,
 Notaries, these presents being first duly read. (10, 11 V. c. 111. *Schedule.*)

CAP. X.—PARTITION OF TOWNSHIP LANDS HELD IN COMMON.

Whereas in some instances Townships have been erected by Letters Patent under the Great Seal of the late Province of Lower Canada, and the Waste Lands of the Crown in the said Townships have been by the said Letters Patent granted to the grantees therein named, as tenants in common, which grantees made no partition thereof, and the said Lands continue to be held in common by persons who have derived their titles from the said grantees, and it is impracticable, by the ordinary process of law, to compel a partition of the said Lands; therefore—

I. Any person seized as tenant in common of Lands in Townships in Lower Canada, originally granted by Letters Patent under the Great Seal of the Province of Lower Canada, to the grantees therein named as tenants in common, may, by his petition in this behalf to the Superior Court of Queen's Bench for the District in which such Lands lay, set forth his title to the said Lands, whereof he is so seized, and demand a partition thereof among the several persons by whom the same are held as tenants in common, in like manner as in an action of partition instituted in the ordinary form of law: and the Court to which such petition is presented shall exercise the same jurisdiction, and adjudge and award the same remedy to the petitioner against his co-tenants in common as in the ordinary action of partition. (10, 11 V. c. 37, s. 1.)

2. After the petitioner has substantiated, by *prima facie* proof to the satisfaction of the said Court, that he is seized of lands held by him as tenant in common as aforesaid, in any such Township, they shall order, that the several co-tenants in common by whom the said lands are held in common with the petitioner, shall on some certain day, in a future Term of the Court, not less distant than twelve months, appear in Court, and answer the petition aforesaid, and shall at the same time file a demand in intervention, in the said Court, of their respective shares, rights and interest in the said lands, and shall also order that the said order in the premises be posted up, in some frequented place in the Township in which the said lands are situated, and if there be no frequented place in such Township, then in some frequented place in the next adjoining Township, at least six months before the time appointed of the said co-tenants as aforesaid, and shall also be published in the Quebec and Montreal Gazettes twice a week, during the same period immediately preceding the time to be appointed as aforesaid. (10, 11 V. c. 37, s. 2, as amended by 12 V. c. 61, s. 1.)

3. After the order of the said Court has been posted up and published as aforesaid, and after the time appointed for the appearance of the co-tenants, and the making of their claims, the said Court shall take cognizance of, hear and determine, as well of and upon the petition aforesaid, as of and upon the several demands in intervention, which may have been made by co-tenants in common, or persons professing to be such: and any of the co-tenants appearing in pursuance of such order, as aforesaid, may controvert and plead to the allegations in the Petition, and make their defence to the same, as might be done by Defendants to a Declaration in an action of partition; and in like manner the said Petitioner may, by plea, controvert and plead to the demands in intervention of his co-tenants, or persons professing to be such, and issues of law and fact, may be raised and perfected, as well on the said Petition as on the said demands in intervention, in like manner as in original actions, in the ordinary administration of Justice, to the end that it may be determined by the Court, whether, upon the said Petition, and upon the said demands in intervention, a partition shall be made, and if made then by and between whom, and for whose benefit. (10, 11 V. c. 37, s. 3.)

4. The said Court, upon the Petition, and demands in intervention aforesaid, shall adjudge that a partition shall be made, and by and between whom, in like manner as in an action of partition, and shall have and exercise upon the said petition, and upon the said demands in intervention, all the powers which it might lawfully exercise in such action of partition, and the rules, orders and judgments so made in and touching the premises, shall be binding as well on the co-tenants who appear and answer the petition, as upon all other co-tenants or persons professing to be such, who make default to appear and answer the petition, and all other persons, in like manner as rules, orders and judgments are binding on the parties to a suit, as well those who appear as those who, after being duly summoned, may make default, and other persons: Provided always, that an appeal shall lie to the Court of Queen's Bench for Lower Canada, from judgments to be rendered under this section, in like manner as from judgments rendered by the said Court in original actions. (10, 11 V. c. 37, s. 4.)

5. The Superior Court upon the petition and upon the demands in intervention aforesaid, may, by consent of the parties respectively, at any time before final judgment thereupon, refer the matter in contest upon the petition, and the demands aforesaid, and the making of the partition aforesaid, to the award and final determination of three arbitrators, one of whom shall be named by the Petitioner, the second by the said Tenant or Tenants collectively, filing demands in intervention, and the third by the Court; which said arbitrators shall act upon such reference in some place in the Township or Parish in which the said lands sought to be partitioned are situate, as the arbitrators, or any two of them shall appoint, and they shall have power to examine witnesses on the matter referred to them after such witnesses have been sworn before any Justice of the Peace, who may administer the oath on this behalf, and also to examine any of the parties on oath touching the said matter, if the arbitrators or any two of them deem such examination necessary or proper, (which oath any Justice of the Peace may administer): and the award of the said arbitrators, or any two of them, on all the matters referred to them shall be final and conclusive. (10, 11 V. c. 37, s. 5.)

6. Any occupant of land in any of the said Townships so appearing in Court and producing a title to a specified number of acres derived from any of the said grantees, or being by prescription according to the Common Law of Lower Canada, entitled to any number of acres, shall be maintained in possession of the land occupied by him, provided that the number of acres specified in such title and so occupied by him do not exceed the extent of land which the grantee from whom such title is derived would have had a right to, had a partition taken place before he divested himself of his title therein; and provided also, that nothing in this Act shall prevent any such tenant in common or any such occupant of any number of acres as aforesaid from availing themselves of any pleas or prescription, nor deprive them of any other right vested in them by the Common Law of Lower Canada. (10. 11 V. c. 37, s. 6.)

7. The said Court in the exercise of the jurisdiction hereby vested in it, shall have the same power to award or withhold costs, upon and in respect of the several proceedings to be had before it, as well upon the Petition aforesaid, as on the demands in intervention aforesaid, as might be lawfully exercised by the said Court upon and in respect of proceedings in original actions. (10, 11 V. c. 37, s. 7.)

8. Any such co-tenant may institute and maintain in his own name, for him and his co-tenants in common, all possessory actions, and actions of revendication, grounded on trespasses committed on such lands, and the removal of timber and wood from and off the same, without joining with him as co-plaintiffs in the said actions, the other co-tenants in common of the said lands; and any action instituted by such co-tenant for him and his co-tenants in common, may be prosecuted with the same effect to all intents and purposes whatsoever, as if such brought in the names of all the co-tenants of the said lands. (12 V. c. 62, s. 1.)

9. All the damages and sums of money, timber, goods and chattels, benefits and advantages, recovered or obtained by such co-tenant as aforesaid, in any such action, shall be held to have been recovered and obtained, for the benefit of all the co-tenants in common of the said lands, according to their respective shares, rights and interests in the same, and the said co-tenant shall be accountable to them accordingly; And provided also, that judgment shall not be rendered in any such action until after the plaintiff has given security to the satisfaction of the Court in which such action is instituted, that he will duly account to his co-tenants whenever required by them or any of them so to do, for all such sums of money, timber, goods and chattels, benefits and advantages as he recovers or obtains under such judgment. (12 V. c. 62, s. 2.)

10. And whereas by Letters Patent, bearing date the nineteenth day of August, one thousand seven hundred and ninety-seven, five sevenths part of the Township of Boltón, (a portion of which now lies in the Township of Magog,) were granted to Nicholas Austin and others, associates as tenants in common; And whereas under the provisions of an Act passed in the Session held in tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to facilitate the partition of lands, tenements and hereditaments in certain cases in Lower Canada*, proceedings were adopted before the Court of Queen's Bench, and are still pending before the Superior Court for the District of Montreal, for the purpose of effecting a partition of the said lands, but owing to the conflicting interests of the resident and non-resident proprietors, it hath been found impossible to effect a partition thereof by the means provided by the said Act; And whereas inasmuch as the obstacles which prevent the partition of the said lands were an inevitable consequence of the unwise and improvident character of the said grant, the Government and Legislature of the Province are bound in justice and equity to repair the injury thereby inflicted upon the resident proprietors, by adopting more efficient means to secure them in their holdings and quiet their titles thereto, therefore,—In every case where on or before the 10th day of January, 1858, any non-resident proprietor of any undivided share or shares in the lands so granted as aforesaid, has, by letter addressed by himself or his Attorney to the Provincial Secretary,

declared that he desires to take advantage of the following provisions, and to have the value of his interest in the said lands estimated, and has appointed the person he proposes to act for him as his arbitrator (*arbitre*,) the Commissioner of Crown Lands for the time being, or in his absence, the Attorney General for Lower Canada, shall appoint a fit and proper person to act as arbitrator (*arbitre*) on behalf of the Crown. (20 V. c. 139, s. 1.)

11. The arbitrators (*arbitres*) so appointed shall, before proceeding further, appoint a third arbitrator (*tiers arbitre*,) or if they cannot agree in their selection, a Judge of the Superior Court for the District of Montreal, shall, upon the application of either of the first named arbitrators, appoint a third; the arbitrators (*arbitres*) so appointed shall proceed to value the undivided share of such non-resident proprietor in the said lands according to his titles and to principles of equity and justice; and the decision of a majority of such three arbitrators shall be final; and the said arbitrators, or a majority of them, shall address the report thereon, or a copy thereof duly certified, to the Commissioner of Crown Lands for the time being. (20 V. c. 139, s. 2.)

12. Upon receipt of any such report, and upon the sale and conveyance by such non-resident proprietor to Her Majesty, Her Heirs and Successors, of all his right, title and interest in the said lands, the Commissioner of Crown Lands, or in his absence, the Attorney General for Lower Canada, shall, in Her Majesty's name, grant, sell and convey in Her Majesty's name, to such non-resident proprietor, an extent of the ungranted lands of the Crown equivalent to the amount at which his share, title and interest in the said lands have been estimated by the said arbitrators in such report, or shall, at his option, deliver to him a certificate entitling him to purchase ungranted lands of the Crown lying in the said Township of Bolton or elsewhere, to an extent equivalent to such amount; and so soon as the Crown has become possessed of all the undivided shares of each of the non-resident proprietors who have disputed or will persist in disputing the titles of the resident proprietors, the Governor shall appoint three fit and proper persons to enquire into and report upon the best and most equitable mode of dividing or partitioning the lands so granted as aforesaid, between the Crown and the resident proprietors, and of quieting the titles of such resident proprietors to their lawful holdings, with a view to effecting such object by further and final legislation. (20 V. c. 139, s. 3.)

13. And in investigating the said titles, and in making such enquiry and report, the said Commissioners shall not be bound to follow the strict rules of law either as to the interpretation of the titles or as to the evidence which they think proper to have adduced before them; but they shall be governed in all matters connected with such investigation and report by broad principles of equity and justice, and by a due regard to the peculiar position in which the parties interested in the said lands so granted as aforesaid, have been placed. (20 V. c. 139, s. 4.)

14. The Commissioners so to be appointed shall have the same powers as the Judges of the Superior Court, within their jurisdiction, to compel the appearance of witnesses and the production of all papers, plans and documents required for the purposes of this Act. (20 V. c. 139, s. 5.)

15. And the Governor shall, by order in Council, from time to time, upon the report of the Attorney General for Lower Canada, order the Commissioner of Crown Lands to grant certificates for the purchase of Crown Lands, either in the said Township of Bolton or elsewhere, for the amount of taxable and duly taxed costs incurred by the parties to the proceedings now pending as aforesaid, as well as for the costs of the arbitrators and Commissioners to be appointed as hereinabove provided. (20 V. c. 139, s. 6.)

16. In this chapter,—the word "person" as applying to a tenant in common, includes any number of persons or any Corporation, or other property having that quality,—the term "non resident proprietor," whether in the singular or the plural number, applies only to persons who have not, either by themselves or their predecessors, cultivated or improved any portion of the land claimed by them. (20 V. c. 139, s. 7.) *Extended to all the Act.*

CAP. XI. REDRESS FOR ILLEGAL DETENTION OF SOCCAGE LANDS.

1. Any proprietor of any lands, held in Free and Common Socage in the townships of Lower Canada, the possession of which has been illegally acquired and is detained from such proprietor against his will, by any person, may, by a Summons issued from the office of the Clerk of the Circuit Court in any Circuit within the District where such lands are situate, summons such occupier or person so acquiring and detaining such illegal possession, before the Circuit Court in such Circuit as aforesaid, or before any Judge of the Superior Court in vacation, and that Circuit Court, or Judge of the Superior Court in vacation, shall in due course hear, determine and adjudge the matter in issue and award costs;

2. Provided always, that when such defendant shall plead and produce an adverse title to such lands, so claimed, then after evidence has been adduced and the *enquête* closed on the part of the plaintiff and defendant, either of the contesting parties, after having previously given security for costs, as well in the Court below as in the Superior Court, may inscribe such cause for final hearing and argument for the Superior Court, at the next ensuing sitting thereof within the District where such action is commenced; and upon such security for costs having been entered up, and such inscription of the cause having been made as aforesaid, the Clerk of the Circuit Court where such action is commenced shall forthwith send up the record, and all proceedings and evidence taken and had in such cause duly certified to the said Superior Court, and thereupon the said Superior Court shall hear the arguments in such cause, determine the matter in issue and award costs, in the same manner in all respects as if the said action had been originally instituted in the said Superior Court;

3. Provided also, that unless security for costs as aforesaid, be entered up in such action in the Circuit Court where it is commenced, within three days after the *enquête* has been closed by both contesting parties to such suit, either of the contesting parties to such suit may inscribe such cause for final hearing and argument before such Circuit Court, or Judge of the Superior Court in vacation, as the case may be, and thereupon the said Circuit Court, or Judge of the Superior Court in vacation, shall proceed to hear, determine and adjudge upon the matter in issue in such cause, and award costs as he might do if no such adverse title were pleaded or produced. (14 15 V. c. 92, s. 1.)

2. The security for costs required to be given by the next preceding section, previously to inscribing a suit for the Superior Court as therein provided in certain cases, may be given by the party inscribing (without giving notice to the opposite party) within three days after the *enquête* is closed by the contesting parties, by good and sufficient sureties, who shall justify their sufficiency either before the Clerk of the Circuit Court where the suit is of record, or before the Judge before whom the *enquête* in such suit is had, and the Bond shall be deposited and remain of record in the office of the Clerk of the said Circuit Court; and any two sureties, being each a proprietor of real property of the value of Fifty Pounds, above all incumbrances payable out of or affecting the same, shall suffice to render such security valid; and the said Judge or Clerk may administer all oaths required by law in such cases from the persons so becoming sureties, and may put to them all necessary inquiries and questions. (14, 15 V. c. 92, s. 8.)

3. In any action instituted as aforesaid, before any Circuit Court, or Judge of the Superior Court in vacation, the Defendant may at his option, before making defense to such action, evoke the same to the Superior Court at its next ensuing sitting within the District where such action is commenced; and immediately upon the filing of such evocation, and upon security being given as hereinafter provided, the record and proceedings shall forthwith be transmitted to the Superior Court in the District where such action is commenced, to be heard, tried and determined according to the course and practice of the said Court. (16 V. c. 205, s. 1.)

4. In any such case of evocation the Defendant filing such evocation shall be held, within eight days from the filing thereof, to give good and sufficient security for the costs to be incurred by the Plaintiff in conducting such action to final Judgment; and a recognizance duly entered into by two sureties, being each a proprietor of real property of the value of Twenty-five Pounds currency, above all incumbrances, shall be sufficient; and such security may be taken by any Judge of the Superior Court or the Prothonotary of the said Court, or before the Clerk of the Circuit Court, who may administer all necessary oaths to

persons becoming such sureties; and it shall not be necessary to give notice to the Plaintiff, of the putting in of such security; And if the security required by this Section be not furnished within the delay prescribed, the right of evocation before trial and *enquête* shall be forfeited. (16 V. c. 205, s. 2.)

5. Every action instituted under this chapter shall be instituted in the same manner, and be subject to the same regulations and delays between the service of process therein and the rules of pleading, as are required by law and the rules of practice in the Circuit Court, as well when such action is instituted before a Judge of the Superior Court in vacation, as when instituted before the Circuit Court, unless and until such action is removed by appeal or otherwise to the Superior Court as above provided, and all documents filed and proceedings had in any action under this chapter shall become records of the Circuit Court where the Summons issues in such action, as well if such proceedings were had before a Judge of the Superior Court in vacation, as if the whole of such proceedings were had before such Circuit Court; and such documents and proceedings shall be records of such Circuit Court, unless removed as hereinbefore provided, to the Superior Court; and the judgments and orders of such Judge of the Superior Court in vacation, as well as of the Circuit Court, in any such action, shall be executory in every respect as fully by such Circuit Court as the judgments and orders in any other action in the Circuit Court at such place; and that the evidence in all such actions shall be reduced to writing and filed of record, in the same manner as in other appealable cases before the Circuit Court. (14, 15 V. c. 92, s. 2.)

6. Whenever the plaintiff is entitled to a judgment under this chapter, by the Circuit Court or by a Judge in vacation, the Circuit Court, or Judge in vacation, as the case may be, may render judgment, and order the same to be entered of record by the Clerk of the Circuit Court at the place where the Writ of Summons in the case issued, and may by such judgment declare the plaintiff the lawful proprietor of the real property in contestation, or any portion thereof, and may order the defendant to deliver up the same to the plaintiff within twenty days after a copy of such judgment has been served upon him; and in default of the defendant's delivering up the same within the said twenty days after such service upon him, a Writ of Possession may issue from the Circuit Court at the place where the record in such action is, directed to the Sheriff of the District within which the real property adjudged is situate, to cause the plaintiff to have the possession thereof. (14, 15 V. c. 92, s. 3.)

7. Whenever a judgment has been rendered under this chapter, by the Circuit Court, or a Judge in vacation, an appeal shall lie to the Superior Court sitting within the District where such action was originally instituted, which shall proceed to hear and adjudge on such appeal as to law may appertain, and in the manner hereinafter provided. (14, 15 V. c. 92, s. 4.)

8. The party appealing from any judgment rendered as aforesaid by the Circuit Court, or by a Judge in vacation, shall, within fifteen days after the rendering of the judgment to be appealed from (but without being bound to give notice thereof to the adverse party) give good and sufficient security, by sureties who shall justify their sufficiency to the satisfaction of the person before whom it shall be given as hereinafter provided, that he will effectually prosecute the appeal, and that he will pay the costs as well in the Court below as in the Superior Court if the judgment appealed from be affirmed; and such security shall be given either before any Judge of the Superior Court or the Prothonotary thereof, and the Bond shall be deposited and remain of record in the office of the latter; or it shall be given before the Clerk of the Circuit Court where such judgment has been rendered, and the Bond shall there be deposited and remain of record in the office of the latter; and any two sureties being each a proprietor of real property of the value of Fifty Pounds above all incumbrances payable out of or affecting the same, shall suffice to render such security valid; and the said Judge, Prothonotary and Clerk are hereby authorized to administer all oaths required by law in such cases from the persons so becoming sureties, and to put to them all necessary inquiries and questions. (14, 15 V. c. 92, s. 5, as amended by 16 V. c. 205, s. 5.)

9. And for the purpose of obviating delay and expense in the prosecution of appeals under this chapter, such appeals shall be prosecuted and proceedings thereon had in a summary man-

ner, by petition of the appellant to the Superior Court, setting forth succinctly the grounds of appeal, and praying for the reversal of the judgment appealed from, and the rendering of such judgment as the Court below ought to have rendered, a copy of which petition, with a notice of the time at which it is to be presented to the Superior Court, shall be served upon the adverse party, or at his domicile, or on his attorney *ad litem* within fifteen days from the rendering of the judgment appealed from; and such petition shall be presented at some term of the Superior Court next succeeding the rendering of the judgment appealed from, if there shall be an interval of twenty days between the rendering of such judgment and such term, and if there shall not be such interval, then on the first juridical day of the term next succeeding the expiration of twenty days next after the rendering of such judgment:

Provided always, that neither the day of the rendering of such judgment appealed from nor the day of the presenting of said petition to the Superior Court shall be considered as forming part of the said interval of twenty days; and that a true copy of the appeal Bond given by the party appealing, certified as such by the Prothonotary or Clerk in whose office it has been deposited, shall be annexed to the original petition presented to the Superior Court, and that a copy or copies of the same, certified as such by the party appealing or his attorney, shall be served with the petition and notice hereinbefore mentioned upon the party respondent. (14, 15 V. c. 92, s. 6.)

10. The Circuit Court, and Judge of the Superior Court in vacation, shall have jurisdiction in the manner hereinbefore stated and to the extent hereinbefore given, in all actions provided for by this chapter, as well where the value of the real property claimed is above as when it is under Fifty Pounds current money of this Province. (14, 15 V. c. 92, s. 7.)

11. In any action instituted under the provisions of this chapter, the Plaintiff may demand such sum of money as he or they may be entitled to by law, for rents, issues and profits, *fruits et revenus*, as well as for damages for the illegal detention of such property; and any Circuit Court, or Judge of the Superior Court in vacation, shall have and exercise jurisdiction over the said demand for rents, issues and profits, *fruits et revenus*, whatever be the sum demanded. (16 V. c. 205, s. 3.)

12. In any action instituted under the provisions of this chapter any Defendant in addition to any other defence which he has to such action, may plead and demand, by incidental cross-demand, all such sum or sums of money as he is entitled by law to demand for improvements, buildings and ameliorations made upon the Real Property sought to be recovered in and by such action; and any such Circuit Court, or Judge of the Superior Court in vacation, shall have and exercise jurisdiction over any such incidental cross-demand, whatever may be the amount claimed thereby. (16 V. c. 205, s. 4.)

13. An appeal shall lie from all judgments rendered in the Superior Court in cases instituted under this chapter to the Court of Queen's Bench, in the same manner, and subject to the same rules and restrictions as other appeals from the said Superior Court. (14, 15 V. c. 92, s. 9.)

14. The costs in any action under this chapter, shall be the same as are allowed in actions in the Circuit Court, when the sum of money or the value of the thing demanded exceeds the sum of Twenty-five Pounds: But if such suit be removed by appeal or otherwise to the Superior Court, the costs shall be the same as in other petitory actions before the said Court; and nothing in this chapter shall deprive proprietors of the right they now possess, of instituting any petitory action before the Superior Court, but it shall be at their option to proceed under this chapter or to institute a petitory action in the Superior Court, as if this chapter had not been passed. (14, 15 V. c. 92, s. 10.)

15. Nothing in this chapter shall deprive any person of any claim he by law had before the Thirtieth day of August, one thousand eight hundred and fifty-one, for betterments or improvements made by him upon any real property of which he is in occupation, nor interfere in any way with any action pending on the said day, in any Court in Lower Canada for the possession of any such real property, which action shall be continued as if this Act had not been passed. (14, 15 V. c. 92, s. 11.)

16. This chapter shall apply only to lands held in free and common soccage, in the Townships in Lower Canada, and shall continue in force, until _____, and no longer. (14, 15 V. c. 92, s. 12.)

1. The Governor may appoint from time to time a Commissioner of Indian Lands for Lower Canada, in whom and in whose successors by the name aforesaid, all lands or property in Lower Canada set apart or appropriated for the use of any Tribe or Body of Indians shall be vested in trust for such Tribe or Body, and who shall be held in law to be in the occupation and possession of any lands in Lower Canada actually occupied or possessed by such Tribe or Body in common, or by any Chief or Member thereof or other party for the use or benefit of such Tribe or Body, and shall recover the rents, issues and profits of such lands and property, and shall by the name aforesaid, subject to the provisions hereinafter made, exercise and defend all the rights appertaining to the proprietor, possessor or occupant of such land or property : and this section shall extend to any lands in Lower Canada held by the Crown in trust for the benefit of any such Tribe or Body of Indians, but shall not extend to any lands vested in any Corporation or Community legally established and capable in law of suing and being sued, or in any person of European descent, although held in trust for the benefit of any such Tribe or Body. (13, 14 V. c. 42, s. 1.)

2. All suits, actions or proceedings by or against the said Commissioner shall be brought and conducted by or against him by the name aforesaid only, and shall not abate or be discontinued by his death, removal from office or resignation, but shall be continued by or against his successor in office ; and such Commissioner shall have, in each District in Lower Canada, an office whereat any process, notice or like matter may be legally served upon him, and may appoint such deputy or deputies, and with such powers as he shall from time to time deem expedient, or as he shall be instructed by the Governor to do. (13, 14 V. c. 42, s. 2, *except the Proviso which is effete by lapse of time.*)

3. The said Commissioner shall have power to concede, or lease or charge any such land or property as aforesaid, and to receive or recover the rents, issues and profits thereof, as any lawful proprietor, possessor or occupant thereof might do, but shall be subject in all things to the instructions he receives from the Governor, and shall be personally responsible to the Crown for all his acts, and more especially for any act done contrary to such instructions, and shall account for all moneys received by him, and apply and pay over the same in such manner as shall be appointed by the Governor, and shall report from time to time on all matters relative to his office in such manner and give such security as the Governor shall require : and all moneys and moveable property received by him or in his possession as Commissioner, if not duly accounted for and paid over, or if not delivered by any person having been such Commissioner to his successor in office, may be recovered by the Crown or by such successor in any Court having civil jurisdiction to the amount or value, from the person having been such Commissioner and his sureties, jointly and severally. (13, 14 V. c. 42, s. 3.)

4. Nothing herein shall derogate from the rights of any individual Indian or other private party, as possessor or occupant of any land forming part of or included within the limits of any land vested in the Commissioner aforesaid. (13, 14 V. c. 42, s. 4.)

5. For the purpose of determining what persons are entitled to hold, use or enjoy the lands and other immoveable property belonging to or appropriated to the use of the various Tribes or Bodies of Indians in Lower Canada, the following persons and classes of persons, and none other, shall be considered as Indians belonging to the Tribe or Body of Indians interested in any such lands or immoveable property :

Firstly. All persons of Indian blood, reputed to belong to the particular Tribe or Body of Indians interested in such lands or immoveable property, and their descendants :

Secondly. All persons residing among such Indians, whose parents were or are, or either of them was or is, descended on either side from Indians, or an Indian reputed to belong to the particular Tribe or Body of Indians interested in such lands or immoveable property, and the descendants of all such persons :
And

Thirdly. All women, lawfully married to any of the persons included in the several classes hereinbefore designated ; the children issue of such marriages, and their descendants. (14, 15 V. c. 59, s. 2.)

6. And whereas it is expedient to set apart certain Lands for the use of certain Indian Tribes resident in Lower Canada :

Tracts of Land in Lower Canada, not exceeding in the whole, with any lands set apart under the Act 14, 15 Vict. c. 106, two hundred and thirty thousand acres, may, under orders in Council, be described, surveyed and set out by the Commissioner of Crown Lands, and such tracts of Land are hereby respectively set apart for the use of the several Indian Tribes in Lower Canada, for which they shall be respectively directed to be set apart in any order in Council, to be made as aforesaid, and the said tracts of Land shall accordingly, and without any price being required therefor, be vested in and managed by the Commissioner of Indian Lands for Lower Canada as aforesaid. (14, 15 V. c. 106, s. 1.)

7. There shall be paid yearly out of the Consolidated Revenue Fund of this Province, a sum not exceeding One Thousand Pounds currency, to be distributed amongst certain Indian Tribes in Lower Canada by the Superintendent General of Indian affairs, in such proportions and manner as the Governor in Council may from time to time direct. (14, 15 V. c. 106, s. 2.)

CAP. XIII.—LICITATIONS.

Voluntary Licitations.

For avoiding inconvenience, delay and expense to parties interested, in cases of voluntary licitation—

1. Whenever it is intended to sell or otherwise alienate the real estate of minors or of any other person whose real estate can only be sold or alienated according to the formalities required for the sale or alienation of the real estate of minors, the Notary, before calling a meeting of the relations and friends for that purpose, in conformity to law, shall cause two *experts* to be appointed who shall not be related to any of the parties or to their legal representatives, or interested in the matter in question, (mention whereof shall be made in the Deed of *Expertise*,) one of which *experts* shall be appointed by the tutor, and the other by the *subrogé* tutor of the minors, (or in the case of the real estate of any other person, subject to the same formalities as provided by law for the real estate of minors, one *expert* shall be appointed by the curator to such person, and the other by one of the relations nearest of kin to, or appearing to be most interested in such person,) of which appointment an *Acte* shall be drawn up before Notaries in the form of Schedule A ; to which *experts* any Notary shall, by this Act, be authorized to administer the oath, which oath shall be taken (in the form of Schedule B) by the said *experts*, before entering upon their duties ; it shall then be the duty of the said *experts* to proceed to ascertain the value of such real estate, and if the sale thereof shall be required on account of indivisibility, they shall also proceed to ascertain whether it cannot be conveniently divided, and shall make their report thereon by *Acte* before Notaries, delivered *en Brevet*, in the form of Schedule C ; it shall thereupon be lawful for any Notary to summon before him the relations and friends who are to compose the said meeting ; he shall administer the usual oath to the persons present at such meeting, and shall read to them the contents of the *Acte* of declaration of the persons requiring such meeting, and the contents of the *Acte* of *Expertise* aforesaid, and shall take their advice, and prepare an *Acte* in the form of Schedule D, mentioning therein the names and the age of the minors, the degrees of relationship, the quality and residences of the persons composing such meeting, and giving therein a description of the real estate. (16 V. c. 103, s. 1.)

2. The Petitioner shall transmit to the Judges of the Superior Court, or the Judges of the Circuit Court, all the originals of the proceedings above mentioned and submit them with a Petition (which every Notary is hereby authorized to certify in the usual manner) setting forth succinctly the object and purpose of the said proceedings without any special designation whatever, in order that the same may be homologated, if they ought so to be, which Petition shall be in the form of Schedule E : if the Judge to whom such proceedings is submitted, homologates the *avis de parents*, he shall place his *Acte* of homologation and ordinance in the form heretofore made use of in like cases, at the foot of the *Acte* containing the *avis de parents*, and the whole shall be deposited with the other proceedings in the Archives of the office of the Court, in order that copies thereof may be given to parties entitled thereto ; and if the Judge to whom the proceedings are referred thinks proper to refuse to homologate them, he shall state his reasons for so doing at the foot of the Petition, and shall affix his signature thereto. (16 V. c. 103, s. 2.)

Forced Licitations.

And in order to provide a more simple and less expensive mode of proceeding to the forced licitation of immoveables held *par indivis* in Lower Canada :

3. In any case in which a licitation is ordered, the party prosecuting the same shall cause to be inserted three times during the space of four months in the *Canada Gazette*, a public notice setting forth that the immoveables subject to licitation will be put up to auction and adjudged to the highest bidder at a sitting of the Superior Court held after the expiration of four months from the date of the first insertion of the said notice in the *Canada Gazette* ; which said notice may be in the form of the Schedule F hereunto annexed. (18 V. c. 110, s. 1.)

4. The above-mentioned notice shall in like manner be published on the three Sundays immediately preceding the day fixed for the adjudication, at the door of the Church of the Parish in which the said immoveables lie, and if there be no Church, or if the said immoveables be situate without the limits of any Parish, then in the most public place of the locality ; and the said notice shall be posted up at the door of the said Church or at the said most public place, on the first Sunday on which it is so published. (18 V. c. 110, s. 2.)

5. The adjudication made after the above prescribed formalities shall have the effect of a *décrot*, and shall purge the property from all charges, privileges, hypothecs and vested rights (*droits ouverts*) in the same manner as adjudication upon execution against immoveables, excepting the charges entered in the Register of charges, as regards the said licitation. (18 V. c. 110, s. 2.)

6. Every opposition *afin d'annuler, afin de charge, or afin de distraire* in respect of immoveables under licitation, shall be filed in the office of the Court by which the licitation has been ordered, at least fifteen days before the day fixed for the adjudication thereof ; and on failure to file such opposition, the legal recourse of the party who has neglected to file his opposition, shall be converted into an opposition *afin de conserver* on the moneys arising from the adjudication. (18 V. c. 110, s. 4.)

7. In all cases in which any opposition *afin d'annuler, afin de charge, or afin de distraire* so filed, cannot be tried before the day fixed for the sale, the licitation shall be suspended until judgment has been rendered thereon, and the Court may appoint another day for the adjudication, notice being given by the parties interested, in the said *Canada Gazette*, of the day so appointed, which said notice shall be published once at least ten days before that appointed by the Court as aforesaid. (18 V. c. 110, s. 5.)

8. The adjudication shall be made in accordance with the conditions contained in the list of charges approved by the Court after hearing the parties thereupon, and the purchase money shall be disposed of in the manner provided for the disposing of moneys arising from execution against the immoveables of any debtor by virtue of a judgment. (18 V. c. 110, s. 6.)

9. The purchaser of any immoveables sold as aforesaid shall, in default of payment of the price of sale, be subject to the same penalties and obligations as any other purchaser of property sold under execution. (18 V. c. 110, s. 7.)

10. All oppositions *afin de conserver* must be filed before the expiration of the six days next after the adjudication. (18 V. c. 110, s. 8.)

11. Whenever any real property is situate partly in one District or Circuit and partly in another, the whole of such real property may be partitioned (*partagé*) or sold by licitation (*licité*) as if the said real property were wholly situate in the District or Circuit in which any judgment in such action has been rendered, and any proceeding *en licitation* or *en partage*, may be commenced, prosecuted, allowed and carried into effect in one or the other of the Districts or Circuits in which the real property in question is partly situate, at the option of the applicant, as if such real property were wholly situate in the District or Circuit in which the applicant has chosen to commence his proceedings. (14, 15 V. c. 60, s. 2.)

SCHEDULE A.

On the _____ day of _____ in the year one thousand eight hundred and _____, at _____ o'clock in the _____ noon, before the undersigned Public Notaries for Lower Canada, residing in the District of _____ came and appeared A, residing _____ of the one part, and B, residing _____ of the other part, who have appointed, that is to say, the said

A the person of and the said B that of as *Experts* for the purpose of proceeding to the inspection of the real estate belonging to described in the declaration made by the said by *Acte* before *Mtre.*, Notary, (or one of the undersigned Notaries,) to ascertain the value thereof, (and if the sale is demanded on account of indivisibility) and whether or not it can conveniently be divided.

SCHEDULE B.

I, and I, do make oath and swear that I will faithfully proceed to the performance of what is required of me by the *Acte* of my appointment, executed before *Mtre.*, Notary, and his Colleague, on the and that I will make a true report of my opinion on the whole matter, without favor or partiality for any of the parties interested in the matter in question. So help me God.

Sworn before us the undersigned Notaries.

SCHEDULE C.

On the day of in the year one thousand eight hundred and at o'clock in the noon, before me the undersigned Public Notary for Lower Canada, residing in the District of came and appeared the *experts* appointed by the *Acte* above executed by the undersigned Notaries, on who declare that having previously made oath as appears by the Certificate hereunto annexed, they proceeded on the day of to the inspection of the real estate, appurtenances and dependencies mentioned and described in the declaration of received by *Mtre.*

Notary, the, and after due examination and obtaining necessary information for the purposes mentioned in their said *Acte* of appointment, they value and estimate the said real estate, (if there be several immovables, they should be valued separately,) and further, (if the sale is made on account of indivisibility) they declare that it cannot conveniently be divided.

The said *experts* further declare that they are not related to the parties interested in the matter in question, nor to their legal representatives.

Acte whereof is delivered *en Brevet* at

SCHEDULE D.

On the day of in the year one thousand eight hundred and at o'clock in the noon, before me, the undersigned Notary Public for Lower Canada, residing in the District of, came and appeared, who affirms that in conformity which the declaration made by *Acte* before *Mtre.*, Notary, bearing date the, for the purpose of obtaining authority to sell, for the reasons therein set forth, the real estate belonging to, therein designated and described as follows, to wit: (here describe the real estate) he did for the said purpose cause to be summoned before us, to wit:

in default of relations, requiring us, they being present, to receive their advice as to the contents of the *Acte* of declaration aforesaid, and the parties above named having appeared, we have caused to be read the said *Acte* of declaration, the report of the *experts* made before *Mtre.*, Notary, and his Colleague, and have taken and received from them the necessary oath, and such oath having been made, they have all unanimously declared that they are of opinion that

(Should there be a division of opinion, mention the same, and give the reasons therefor.)

SCHEDULE E.

PROVINCE OF LOWER CANADA, }
DISTRICT OF }
To the Honorable the Judges of the Superior Court (or the Judge of the Circuit Court,) &c. &c. &c.

A. (addition and place of residence) humbly represents that he has caused the relations and friends to be consulted by *Mtre.*, Notary, at on the day of, and has caused to be fulfilled all the proceedings by law required to be had in order to and submitted for your approval. And he therefore prays that your honors will take these proceedings into consideration and homologate them, if they ought to be so homologated, and you will do justice.

At the one thousand eight hundred
(These five Schedules from 16 V. c. 203.)

SCHEDULE F.

Lower Canada,
District of

} LICITATION.

Public notice is hereby given that under and by virtue of a judgment of the Superior Court sitting at _____, in the District of _____, on the _____ day of _____, one thousand eight hundred and _____, in a cause in which A. B., (*description at length*) is plaintiff and C. D. (*description at length*) is defendant, ordering the licitation of certain immoveables described as follows, to wit: (*here insert the description of the property to be sold*) the property above described will be put up to auction and adjudged to the last and highest bidder on the _____ day of _____ next, sitting the Court, in the Court Room of the Court House in the said city (or town) of _____, subject to the charges, clauses and conditions contained in the list of charges, deposited in the Office of the Clerk of the said Court; and any opposition *afin d'annuler, afin de charge* or *afin de distraire*, to the said licitation, must be filed in the Office of the Clerk of the said Court fifteen days at least before the day fixed as aforesaid for the sale and adjudication, and oppositions *afin de conserver* must be filed within the six days next after the adjudication, and failing the parties to file such oppositions within the delays hereby limited, they will be foreclosed from so doing.

CAP. XIV.—SALE UNDER EXECUTION OF IMMOVEABLES OF UNKNOWN OR UNCERTAIN OWNERS.

For avoiding inconvenience and useless expense to hypothecary Creditors by reason of the proprietors of immoveables charged with hypothecs being in certain cases unknown or uncertain:

1. In all cases in which the proprietor of any immoveable charged with hypothec is unknown or uncertain, the hypothecary creditor to whom is due the capital sum secured by the hypothec, or at least two years' arrears of rent or interest thereupon, may present a petition to the Superior Court for the District in which the immoveable is situate, and the following matters shall be contained and set forth in the said petition:

1. It shall contain a correct description of the immoveable, setting forth the limits and boundaries thereof, and giving the street of the city or town, or the range or concession of the parish or township in which it is situate, the name of the occupier, if the immoveable be occupied, the name of the last known occupier, if it be unoccupied, and the period for which it has remained so, and the names of all the known proprietors since the date of the instrument creating the hypothec;

2. It shall contain all the allegations necessary to establish the debt and the hypothec, and further, such facts and circumstances as will tend to prove that the proprietor of the immoveable is unknown or uncertain, and that the petitioner has *bona fide* and carefully made the necessary search in order to discover the proprietor;

3. It shall conclude by praying, that public notice be given to the proprietor as hereinafter provided, and that, failing such proprietor to appear, the Court will order the sale of the immoveable to be proceeded with as hereinafter provided;

4. The petition shall be accompanied by a certificate, given by any person competent for that purpose according to the practice of the Court, setting forth that the petitioner or his agent have made oath of the truth of the allegations therein contained. (18 V. c. 106, s. 1.)

2. The Court shall examine the documents produced in support of the petition, and shall order such proof as it deems necessary, and being satisfied of the truth of the allegations of the petitioner, shall order the publication of a notice in the form of Schedule A herunto annexed. (18 V. c. 106, s. 2.)

3. The notice so ordered shall be inserted once a week for four consecutive weeks in a newspaper published in the English language and also in a newspaper published in the French language, in the District in which the immoveable is situate, and if no such newspapers be published in such District, then the publication of the said notice shall be made in the newspapers published in one of the adjacent Districts. (18 V. c. 106, s. 3.)

4. The notice shall be published and posted up in the French and English languages at the door of the Church immediately after Divine Service on Sunday, in the Parish in which the immoveable is situate. (18 V. c. 106, s. 4.)

5. If within the period of two months after the last insertion of the notice in the newspapers and after the publication at the Church door, no person has appeared as hereinafter provided, the petitioner shall proceed upon his petition as in any case in which the defendant makes default; and if the Court is of

opinion that all the formalities have been fulfilled, and that the allegations of the petition are sufficient and sustained, the Court shall give judgment declaring the immovable hypothecated, and ordering that it be sold to meet the claim of the petitioner. (18 V. c. 106, s. 5.)

6. Upon such judgment, an order of the Court shall issue, upon the application of the petitioner, addressed to the sheriff of the District, and the same proceedings in all respects shall be taken by virtue of such order, as are taken by virtue of a Writ of *feri facias de terris*; and the Writ or order shall be in the form of Schedule B, and the Court shall dispose of the proceeds of the sale of the immovable, in the same manner as in ordinary cases of Sheriff's sale and the sale shall have all the effects of a *decrét*. (18 V. c. 106, s. 6.)

7. The proprietor of the immovable may enter an appearance to answer the petition, in the same manner as in any other action, at any time before the rendering of the judgment ordering the sale of the immovable, which appearance shall be in the form of Schedule C; and after the expiration of the delay prescribed by section 5, the petitioner shall file in the office of the Court a declaration *en déclaration d'hypothèque*, against the party appearing, and the same proceedings shall be taken in every respect between the parties and by the Court as in an action *en déclaration d'hypothèque*. (18 V. c. 106, s. 7.)

8. If several persons appear, claiming, in opposition one to the other, to be proprietors of the immovable, then unless some one of them pays the petitioner the amount of his claim and costs, or offers against the demand of the petitioner such a plea deemed by the Court to be valid in law, the petitioner may, (the delay prescribed by section 5, having expired,) inscribe the cause, giving notice thereof to the parties appearing, and the Court, after having heard the parties, may render judgment in conformity with section 5, which judgment shall be executed in conformity with section 6. (18 V. c. 106, s. 8.)

9. In case several parties appear claiming to be proprietors, in opposition one to the other, and one or more of them sets against the demand of the petitioner a plea deemed by the Court to be valid in law, judgment shall be rendered upon any such plea before proceeding to judgment in conformity with section 8, but no party appearing shall be admitted to make such plea unless he establish, *prima facie*, that he is proprietor of the immovable. (18 V. c. 106, s. 9.)

10. In case several parties appear and the defense made by any one of them is declared good, the case shall be dismissed and the Court shall adjudge costs to the parties entitled thereto, but if all the oppositions be dismissed, judgment shall be rendered in conformity with section 8. (18 V. c. 106, s. 10.)

11. When a judgment ordering a sale has been rendered, in conformity with sections 8 and 10, the parties who have appeared, shall have their claims adjudicated upon by the Court, after the sale of the immovable, and the same proceedings shall be had in respect of them, as in the case of the contestation of an opposition, and the Court shall adjudge the balance of the proceeds of sale, (all the hypothecs and costs having been first paid,) to any one of the parties who proves his right of property, but this shall not retard the homologation of the Report of Distribution between the petitioner and the other hypothecary creditors who have made their oppositions. (18 V. c. 106, s. 11.)

12. Any proprietor, who has not appeared before the rendering of the judgment ordering the sale, may, nevertheless, at any time, present a petition praying that he may receive the balance of the proceeds of the sale of the immovable hypothecated, and the Court, upon proof by him of his right of property, shall order that the balance be paid to him. (18 V. c. 106, s. 12.)

13. The Prothonotary shall publish, in the month of January in each year, a list of the unadjudged balances remaining in his hands by virtue of this Chapter, which list shall be in the form of Schedule D. (18 V. c. 106, s. 13.)

14. The Superior Court shall prepare Rules of Practice, providing for any proceedings for which sufficient provision is not made by this Chapter, and a Tariff of Fees to be received by the officers of the Court for the duties imposed upon them by this Act. (18 V. c. 106, s. 14.)

15. It shall not in any case be necessary (except in the case provided for by section 7,) to cause service to be made of any judgment obtained by virtue of this Chapter, and it shall not be necessary to cause service to be made of any judgment *en déclaration d'hypothèque* obtained against a debtor absent from this Province, or who has no known domicile therein. (18 V. c. 106, s. 15.)

16. In cases where there are one or more known proprietors holding conjointly with unknown or uncertain proprietors, the known proprietor may be sued as joint holder with unknown or uncertain proprietors; and the form of notice to be given shall in such case be changed accordingly and proceedings may be taken with respect to the unknown or uncertain proprietors, in the manner provided by this chapter. (18 V. c. 106, s. 16.)

17. The word "proprietor" in this chapter includes usufructuaries or any other holders, in so far as such usufructuary or any other holder may, by the law now in force, exercise the rights of the proprietor, and it also includes co-proprietors *par indivis*. (18 V. c. 106, s. 17.)

SCHEDULE A.

Form of Notice in the Newspapers.

Province of Canada, }
 District of }
 (Name of place.) } day of

Know all men that A. B. of the Parish of in
 the District of , by his petition filed in the office
 of the Court under No. , prays for the sale of an im-
 moveable situated in the said District, to wit : A land contain-
 ing arpents in front, by in depth, in
 the first range of the Seigniority of , in the Parish of
 , in the County of , bounded as
 follows, to wit : which land is now occupied by
 D. C. (or has not been occupied for years, and was last
 occupied by N ,) and the said A. B., alleging that by Deed of
 (entered into by D. E. of before F. G., Notary,
 (or as the case may be) at on the a hypothec
 was constituted upon the said immoveable hereinabove des-
 cribed, for the sum of , claims from the present
 proprietor of the said immoveable the sum of due to
 him for

The said A. B. further alleges that the present proprietor of
 the said immoveable is unknown (or uncertain) and that the
 known proprietors since the date of the said Deed of
 have been N. G. and F.

Notice is therefore given to the proprietor of the immoveable
 to appear before this Court within two months, to be reckoned
 from the fourth publication of this present notice, to answer to
 the *demande* of the said A. B., failing which, the Court will
 order that the said immoveable be sold by Sheriff's sale (*decret*).

First insertion.

H. P.

Prothonotary.

SCHEDULE B.

Form of Writ for sale of the immoveable.

To the Sheriff of the District of

Whereas the following notice hath been given in conformity
 with the Chapter of the Title, of the Revised Statutes,
 (*recite the notice*); and whereas judgment was rendered on
 the day of , ordering the sale of the im-
 moveable described in the said notice, you are hereby enjoined to
 make the ordinary announcements thereof and to sell the said
 immoveable in order to the payment to the said A. B., of the
 sum of and taxed costs, and you shall
 make a return of this Writ and of the oppositions which have
 then been placed in your hands, on the

H. P.

Attest, A. F.,
 Judge.

SCHEDULE C.

Form of Appearance.

I, B. C., appear to answer to the petition of A. B., as pro-
 prietor of the immoveable described in the said petition, by
 virtue of (*state by virtue of what title you are proprietor, and
 give the dates of the Acts or Deeds by virtue of which you are
 such proprietor.*)

SCHEDULE D.

Form of List to be Published.

List of sums remaining unadjudged in the hands of the Pro-
 thonotary of the Superior Court for the District of ,
 under the Chapter of the title of the Revised Statutes.
 pounds, balance of the proceeds of the sale of an im-
 moveable situate at , in the District of ,
 (*repeat the description as given in the notice*) sold upon the pe-
 tition of for a hypothec stipulated by C. B.;—last
 known occupier A. F., known proprietors, C. L., H. F.

H. P.,

Prothonotary.

The Schedules are those to (18. V. c. 106.)

CAP. XV.—OPPOSITIONS *AFIN DE CHARGE* FOR CERTAIN RENTES.

In order more effectually to secure the payment of constituted rents (*rentes constituées*) and life rents (*rentes viagères*) in Lower Canada :

I. The holders of constituted rents (*rentes constituées*) and of life rents (*rentes viagères*) secured by privilege and hypothec of *bailleur de fonds*, may proceed by opposition *afin de charge* for the preservation of their rights in respect of such rents.—(19, 20 V. c. 59.)

CAP. XVI.—IMPROVEMENT OF WATER-COURSES.

I. Every proprietor of land may improve any water-course bordering upon, running along or passing across his property, and may turn the same to account by the construction of mills, manufactories, works and machinery of all description, and for this purpose may erect and construct in and about such water-course, all the works necessary for its efficient working, such as flood gates, canals, embankments, dams, dykes, and the like. (19, 20 V. c. 104, s. 1.)

II. The proprietors or lessees of any such works shall be liable for all damages resulting therefrom to any person whomsoever, whether by the too great elevation of the flood gates or otherwise. (19, 20 V. c. 104, s. 2.)

III. Such damages shall be ascertained by *Experts* to be appointed by the parties interested, in the ordinary manner; and in default of either of the said parties to appoint such *Expert*, one of the *Experts* of the municipality, to be selected by the Warden, shall act. In case of difference of opinion, the two *Experts* appointed shall choose a third. The *Experts* shall be sworn before a Justice of the Peace faithfully to perform their duty as such. In assessing the damages and fixing the compensation to be paid, the *Experts*, if the case requires it, may set off against the whole or any part of such damages, any increased value which the property of the claimant has acquired by reason of the erection of such works, mills, manufactories or machinery. (19, 20 V. c. 104, s. 3.)

IV. In default of payment of the damages and indemnity so awarded within six months from the date of the report of the *Experts*, together with legal interest to be computed from the said date, the party by whom the payment is due shall demolish the works which he shall have erected, or they shall be so demolished at his costs and charges, upon judgment to that effect rendered, the whole without prejudice to the damages and interest already incurred. (19, 20 V. c. 104, s. 4.)

CAP. XVII.—LAW *ÆDE*, REPEAL OF.

1. Whereas the Law *Æde* whereby the landlord or proprietor has a right to go into possession of the house leased and evict his tenant therefrom before the expiration of the lease, for the purpose of occupying himself the premises, ought to be repealed,—therefore, so far as respects the right above mentioned, the said Law *Æde* is repealed; and it shall not be competent to any landlord or proprietor, upon any lease made after the fourteenth day of June, 1853, to evict his tenant under or by any such Law for the cause aforesaid, unless the said right has been expressly reserved by the lease, and in that case at least one month's previous notice shall be given, unless it be otherwise stipulated in the said lease. (16 V. c. 204.)

CAP. XVIII.—RETRAIT LIGNAGER ABOLISHED.

The right of *Retrait Lignager* and all rights of action resulting therefrom or contingent thereupon, are abolished, and the seventh title of the Custom of Paris and the articles composing the same are annulled and repealed. (18 V. c. 102, s. 1.)

Proceedings arising out of the *Retrait Lignager* pending before and on the 30th May, 1855, before Courts of Justice, shall not however be affected hereby. (18 V. c. 102, s. 2.)

CAP. XIX.—TO SECURE THE TITLES OF CERTAIN PERSONS NATURALIZED UNDER THE ACT OF L. C. 1st WILL. IV, CHAP. 53.

I. All parties who have duly complied with the requirements of the Statute of Lower Canada, 1 W. 4. c. 53, are confirmed and maintained in the enjoyment of all Real Property which was in their actual occupation and enjoyment at the time of the passing of the said Act, and which at any time before had been devised and bequeathed to them by Will, Deed or Gift, or otherwise, or of which they took possession and enjoyed in fact,—as if they had been legal Heirs of their deceased parents being Aliens, and in all Rights, Title and Interest in and to such Real Property, and the rents, issues and profits thereof, as fully as any Natural-born Subject of the Crown might, and could, and may and can take, hold and enjoy Real Property devised or bequeathed to him or them, or coming to him or them by right of descent and inheritance; any Law, Judgment, or Process to the contrary notwithstanding. (12 Vic. c. 198, s. 1.)

II. Any party having so complied with the said Statute of Lower Canada, and Naturalized by virtue thereof, who by reason of his having been or being an Alien, is disturbed or who has since the passing of that Act been disturbed on such ground, in the actual enjoyment and occupation of any Real Property by him claimed under the said Statute as Heir, Devisee, Donee or Grantee of his father or mother being Aliens, by any party or parties claiming under any Judgment, Order, Decree, Writ, Process or Proceedings of any Court or Courts of Justice at any time rendered by order thereof, may apply by petition to any (*Court of Queen's Bench*) in Lower Canada, and upon proof by affidavit or otherwise, that the said party petitioning hath been Naturalized under the said Statute, and upon proof of service of a copy of such petition upon the adverse party or parties at least Twenty-one days before the day of presenting such petition, such Court shall make an Order to quash all Writs of Execution and all proceedings under colour of any Judgment or Judgments, or of such Writs and Process, by which such petitioner is disturbed in or deprived of the enjoyment and possession of any Real Property so by him claimed, held, occupied and enjoyed under the said Statute, as Heir, Devisee, Donee or Grantee of his father or mother being Aliens, and upon the making of the said Order all proceedings whatever under such Judgments, Writs and Process shall surcease and determine, and the said Writs and Process shall be quashed and annulled and set aside. (12 Vic. c. 198, s. 2.)

III. Nothing herein shall prevent any remedy which any party now has to enforce the payment of costs awarded under any Judgment against any other party Naturalized under the said Statute, and otherwise entitled to claim the protection of this Chapter, but every remedy which the party having an award of costs is entitled to exercise, shall continue to be exercised as if this Law had never been passed. (12 Vic. c. 198, s. 3.)

LOWER CANADA.

Class E. (Real Property and Rights.)

TABLE TO THE ACTS IN THIS CLASS,

Showing the Title under which each of them is entered, and exhibiting their effect upon each other so far as appears necessary for elucidating the mode in which the several Titles in this Class have been prepared for the revised Statutes, and of facilitating their examination and testing their correctness. These Tables are brought down to the end of the Session of 1857.

1.—FREE AND COMMON SOCCAGE LANDS.

- 9 Geo. 4, c. 77.—LANDS IN FREE AND COMMON SOCCAGE, Conveyances of, &c.—Presented for the Royal Assent 14th March, 1829;—Reserved; and the Royal Assent given in Council 11th May, 1831, and proclaimed 1st September, 1831.—P. By 31 G. 3, c. 31, s. 32, no reserved Bill could have any force unless the Royal Assent were signified, in the manner prescribed by the said section, within two years from the time it was presented to the Governor, for the Royal Assent. The proclamation of 1st September, 1831, declares the Royal Assent to have been given under the powers vested in the Crown by the Imperial Act 1 W. 4, c. 20, which was passed on the 30th March, 1831. Doubt appears to have been, whether the subject of this Act (9 G. 4, c. 77) was within the powers of the Provincial Legislature; and though the 1 W. 4, c. 20 unquestionably removed any objection founded on the nature of the provisions of the Act under consideration, and enabled the Crown to assent to any Bill which had been or might be passed containing such provisions, it contains no direct reference to the Act under consideration, and might perhaps be held not to have removed objection arising from the lapse of the two years (completed before the 1 W. 4, c. 20 passed.) With regard to sec. 4, see 2 L. C. Reports Boston vs. Classon. With regard to sect. 6, see 36 G. 3, c. 1, declaring the time of the passing of a Reserved Act to be the date of the Proclamation of the Royal Assent. In Boston vs. Classon, this Act, (9 Geo. 4.) was, in 1851, held in force in Lower Canada.—And see *now* 20 V. c. 45, removing all doubt by confirming this Act, and declaring it to have been in force since 1st September, 1831.
- 20 Vic. c. 45.—FREE AND COMMON SOCCAGE, for settling the law relating to lands held in.—It amends and confirms 9 G. 4, c. 77, which see, removing all doubt as to its having been in force since 1st Sept., 1851.

2.—WILLS.

- 41 Geo. 3, c. 4.—WILLS AND TESTAMENTS—
With regard to sec. 2. see 12 V. c. 38, sec. 74, allowing probate to be made before Circuit Judge or Court.
See also 16 V. c. 198 facilitating proof of foreign probates.

3.—SECRET INCUMBRANCES.

- 9 Geo. 4, c. 20.—RATIFICATION OF TITLE.—T. To be in force until 1st May, 1834, and to the end of the next session. Continued by divers Acts, lastly by 20 V. c. 16, to 1st Jan., 1858, and to the end of the then next session. It is still necessary, although the Registration Ordinance (4 V. c. 30) has come into full operation; but its provisions should be altered and the amended Act made permanent.
“The 9 Geo. IV. c. 20 is a mere transcript of the Edit of 1771”—*per* Stuart C. J. P. 224. Rev. de Legln. 1845-6.
“The 9 Geo. IV. c. 20 is to be interpreted by itself. The Edit of 1771 is different in many respects”—*per* Rolland C. J. P. 242. Rev. de Legislation 1846-7.
With regard to Sect. 3—difficulties must occur in many cases in settling the amount to be tendered as increase of price &c. particularly in cases of donation exchange, devise, sales *à redevances*, &c. As to the meaning of “completing and making up the highest price” &c. see P. 303. Vol. 3. L. C. Reports.
? Can chirographary creditors file oppositions? In Montreal it is held that they cannot—*See* *vide* Sect. 10, and Merlin Rep. “Opposition au Sceau des Lettres de Ratification.”—Can they bid? *Semble*, the law allows them.
- Sect. 6. Seems abrogated by 14, 15 V. c. 60, making provisions for proceedings when the real estate is partly in one District and partly in another.
With regard to Sect. 7—Is the Crown bound by this? *Semble*, no. The words “even for dower not yet open (*Douaire non encore ouvert*)” seem to be improperly here—Under the Edit of 1771 *dower non ouvert* was not thus purged.

With regard to Sect. 8, contrary to the wording of § 7, it preserves the wife's & children's claim for dower *non ouvert*. Some have said that the word "remaining" was accidentally omitted in this Sec. 8—before the word "immovables." Had it been here, there would have been harmony between Sects. 7 and 8—But *query* as to its accidental omission.

With regard to Sect. 10—Can the applicant be compelled to deposit his *prix d'acquisition*? See 3 L. C. R. P. 302.

With regard to Sect. 14. What the value of a *feigned décret* prosecuted since this law was made? Many have been prosecuted.

This is not a permanent law; yet ought to be, and it ought to be added to and improved.

4.—REGISTRATION OF TITLES.

4 Vic. c. 30.—REGISTRATION OF TITLES, etc.—

Registration of Titles to and Claims upon Real Property, Alienation or Hypothecation of such Property.—9th February, 1841.—P. (Expressly by Sect. LIX.)—By the Proclamation bearing date 18th December, 1841, issued under Sect. LVII, the 31st December, 1841, was appointed to be the day from and after which this Ordinance should have force and effect.—In force, in so far as its provisions are not Effete or inconsistent with subsequent enactments.—It is expressly amended by 6 Vic. c. 15 and several subsequent Acts.—It repeals the former Registration Acts.

With regard to Sect. 1.—*Query*, as to the effect of the words "and of all Wills which shall be made and published, &c." *Scmble*, The effect the same as if the words "which shall be," had been omitted, the effect of the Ordinance not to be held limited to Wills made and published after it came into force?—*Query*, as to the force of an instrument made since 1841, creating a servitude or "in any way affecting" the value of an estate, without alienating any part or creating an hypothec for a specific sum of money under Sect. XXVIII?—must all non-*Seigniorial* servitudes be registered?—A *coupe de bois* was sold in 1843. The Deed was not registered. In 1853, the seller of the servitude sold the land itself to a person who registered.—The purchaser of the *coupe de bois* having cut wood, in an action brought against him, his servitude was declared of no effect, for want of registration. No. 2681, Superior Court Montreal, Thibeault vs Dupré & al: 1854. See notes on Sect. III, as to the effect of that Section on this.—It does not seem that the Proviso as to the non-effect of notice would extend to render valid a title which, without the Ordinance, would be vitiated by *fraud*, except in as far only as might be necessary to save the rights of a subsequent purchaser innocent of such fraud? See 3 L. C. R. P. 136.—*Ross vs Daly & Killally* oppt. (as to knowledge of previous unregistered mortgage.) See 7 V. c. 22, s. 9, and 8 V. c. 27, s. 7, providing that the prior registration of a subsequent title, or instrument creating an incumbrance, shall not affect a proprietor in open and public possession of the property; The 7 Vic. c. 22, also allows registration by transcription or at full length.—See also 19 Vic. c. 15, allowing registration by extracts.

With regard to Sect. II. See 6 V. c. 15. s. 2, providing that no registration shall be required for arrears of any *Seigniorial* services, *servitudes*, reservations, rights or dues, legal or conventional. The words "Lord of the Fee" seem to be used as synonymous to "Seignor" and not to apply to the owner of the fee simple, in cases where, on alienating it, he may reserve any rent or charge.

With regard to Sect. II, the Act 8 Vic. c. 43, (amending 7 V. c. 27, authorizing the *Seigniors* of certain *Fiets* in Montreal to commute,) specially reserves the same privilege for the commutation money, if secured on the property, which the *Seignor* had for the rights commuted, and so also does the general commutation Act, 8 V. c. 42. s. 2.—*Query*, as to the necessity for registering such privilege, even *arrears* of *Seigniorial* rights being exempted by 6 Vic. c. 15. s. 2. See also 18 Vic. c. 3. sec. 27, by which are exempted from Registration the *rentes constituées* there mentioned.

Query, as to the effect of Sect. III on the provisions of Sect. I? It would seem that parties whose titles are traceable, however remotely, to the same *Auteur*, would be subject to the operation of Sect. I, and that Sect. III is inserted to prevent its being supposed that a title derived from a party who had himself no title or power to convey, could be made valid by registration, and is therefore in the nature of a declaratory clause, and does not make any change in the legal effect of Sect. I?

With regard to Sects. 1 & 4—It has been held by the Court of Appeals (reversing a Judgment of the Superior Court, Montreal) that a vendor, who has not been paid his *prix de vente*, and who has not registered, can exercise the action *résolutoire* against a *bonâ fide* purchaser whose deed has been registered, and that the provisions of the Ordinance have not destroyed such right of action. See *Pattenaude vs Leriger de Laplante, March, 1857.*

With regard to Sect. IV, see 6 V. c. 15, s. 1, prolonging the term for registering the claims to which this Section refers, to 31st December, 1843, inclusive, and providing that such claims not then registered shall be inoperative only against subsequent *bona fide* purchasers whose claims shall have been registered before them, instead of declaring them "void and of no effect whatever" against any such subsequent purchaser and &c. as this Section does. The 7 Vic. c. 27 prolonged the period for registering until on or before 1st of November, 1844.

With regard to the Proviso to Sect. IV, see also s. 2 of the Act last cited, and the notes on Sect. II of this Ordinance.—With regard to S. IV, see also 16 Vic. c. 206 declaring *Baillieurs de fonds* bound to register, and fixing delays for such registration.—See also 1. L. C. Reports p. 435—Duchesnay & Bedard & Campbell, Oppst.—where this section is declared retroactive—and Vol. 2. p. 87. Girard & Blais & Oppsts.—See also 3. L. C. Reports p. 440. David & Ilays & Ilays & al : Oppsts. in which cause it was decided that no hypothec attached to the Estate of an Executor, even of an old will, unless some *acte* be registered (such as an Inventory) establishing that the Executor assumed the trust. Where there are several mortgage creditors who do not register, and their debtors' land is sold, they will be collocated according to the dates of their Deeds, and in preference to mere chirographary creditors of the debtor.—(Bank of Montreal v Mack & Viger, Opposant—Superior Court, Montreal, No. 1849 of 1849.)—See as to the meaning of *bona fide* in this Sect., Stuart & wife v. Bowman.—3 L. C. Reports p. 309.—(Notice of unregistered right, and circumstances of fraud, will prevail against a registered title.)—And as to the meaning of "for valuable consideration," Holmes vs. Curtier & al. Superior Court Montreal, 5. L. C. Reports, where a *donataire à rente viagère* was held not to be such a purchaser or grantee.—Would it be held that a servitude acquired under a deed of date anterior to 1841 required registration.—? Sect. 4 differs considerably from sec. 1. In Dorion & ux. vs. Rivet. S. C. Montreal—1856, the question was raised, but not determined, the Judgment proceeding on another ground.

With regard to Sect. VI. see 12 Vic. c. 48. s. 3.

With regard to Sect. VII,—there can be no Sheriff of such a Judicial District, the Ordinance 3 & 4 V. c. 43. being repealed, sed. ?

With regard to Sect. VIII, see, as to securities to be given by Public Officers, 4 & 5 V. c. 91, which repeals so much of this Ordinance as may be inconsistent with the said Act.—It does not, however, appear that by this Ordinance the Deputy Registrar is bound to give such security, (see Sect. VIII) the Registrar being responsible for his acts, (see Sects. VIII & IX) and the bond of the Registrar availing as to such acts :—but *Query*, as to the case in which the Deputy executes the office of Registrar (under Sect. VI) in consequence of the death of his principal ?—The sureties under the said Act (see S. 1.) are to be approved by the Governor, or by the Principal Officers or persons in the department to which the party giving security is appointed, while this Sect. (VIII) requires that they be approved by the Justice before whom the recognizance is given.—See 14 and 15 Vic. reducing the amount of security to be given by Registrars, and 19 Vic. c. 102, also reducing it.

With regard to Sects. VI, VII, VIII & IX, all the provisions of the Ordinance which can be so applicable, appear to apply to Registrars for Counties as they did before to those for Districts.

With regard to Sect. IX. see 4 & 5 V. c. 91—s. 2 of which Act seems to require that the security be absolute when required only by the said Act ; but s. 14 does not appear to change the *nature* of the security required, but only to subject it to the *formalities* prescribed by the Act, and to the penalties thereby provided in case of neglect.—? *Query*, as to the case of the *removal* of a Registrar, for which this Section does not expressly provide.

With regard to Sect. X,—*Query* :—Is it necessary that the "places of abode" of the witnesses to any Deed, &c., should be mentioned in it, as they must be in the memorial of it ?—The hypothec under a Judgment rendered after 31st December, 1841 appears to date only from its registration : and see Sect. XXX, as to the lands which it shall affect.

With regard to Sect. X see 19 Vic. c. 15 providing for execution and signing of memorials when the memorialist does not know how to write.

With regard to Sect. XI, it appears that the execution of the memorial only need be proved, and that it is not necessary that one of the witnesses to the memorial should be also a witness to the deed or conveyance.

With regard to Sect. XII,—it would appear that to the cases mentioned in this Section, the provisions of Sect. XI would apply so far as to require that the instrument to which the memorial relates, or the Office copy, probate, &c., thereof, should be produced to the Registrar.

With regard to Sects. X, XI, XII, & XIII, see 7 V. c. 22, s. 7, providing that the certificate of the Registrar shall contain a copy of the Memorial, or be indorsed on a copy thereof,—and 8 V. c. 27. s. 1, providing that Memorials may be executed by and registered at the instance of any party having an interest, direct or indirect, in the registration or of the debtor or party charged,—and may be attested before any Notary, Commissioner for receiving Affidavits to be used in Q. B. or Justice of the Peace,—that the Registration by Memorial shall avail to all parties interested in the instrument it relates to, and may be made on its being presented by any person producing such instrument; and that the Certificate may be written upon the document registered and need not contain copy of memorial. Section 2 provides that Memorials executed in any part of *this Province* (Canada) may, on the observance of the said formalities only, be registered at the instance of *any person whomsoever*, so that interest in the instrument is not required in such case?

With regard to Sect. 12, see 19-20 Vic. c. 88, providing for proof of deeds, &c. and: Memorials, in Upper Canada for use in Lower Canada.

With regard to Sect. XV see 6 Vic. c. 15. s. 2. which removes all Obligation to register for any Seigniorial services or rights.

With regard to Sect. XVI, there can now be no Judge of the Court of Common Pleas, the Ordinance for constituting that Court being repealed. With reference to this Section, see also Sect. X, as to the parties by whom memorials must be made.—*Query*, as to the Power of an Attorney or Agent to make the memorial for interest, or to take the oath that it is due.

With regard to Sect. XVI,—see also 7 V. c. 22. s. 10. amending and explaining this section, and providing that it shall save the right to the arrears of interest for two years and the current year,—that the hypothec for interest not preserved by the original registration shall date from the registration for interest,—that the claim for interest need not be attested on oath when founded on the authentic document,—and that the registration of the title shall save the interest or arrears for five years and the current year in the case of alimentary pensions, life rents, rents under lease, interest on the price of the property, or arrears of a *rente foncière* or *constituée* upon it:—and with regard to this section, and Sect. XL and others, see 8 V. c. 27. facilitating the entry of Documents filed on or before 1st November 1844, (so that all such documents may be registered in six months after 29th March 1845,) and providing that a certificate of the entry of any such document for registration shall be sufficient without mentioning the book or page in which it is registered:—also allowing any body interested, even the debtor, to make the memorial and ask registration of it:—See also I. L. C. Reports for several cases in which, (since 7 Vic. c. 22. even,) it has been held that the registration, on or before 1st of November 1844, of deeds passed before the coming into force of the 4 Vic. c. 30, is sufficient to preserve mortgage for *all* interest due, without any memorial for any arrears.

With regard to Sect. XVII,—the intention of the Legislature seems to be, that a lease for less than nine years shall not be regarded as the conveyance of an estate or interest requiring registration as such, and not that any express hypothec created by or arising out of such lease should be exempted from registration?—But see *contra* *Brown v McInenly*. P. 291. Vol 3. L. C. Reports. It would appear to be intended that longer leases shall require registration?—*Query*, as to leases for nine years exactly, or for a life or lives?—the legislature meant to say 9 years or less?—Sect. XVIII, would seem to refer to a legal bankruptcy under the old Bankrupt Ordinance, and not to mere insolvency?

With regard to Sect. XVIII, see 7 V. c. 10. S. 37, declaring all conveyances and contracts, and other dealings and transactions with any Bankrupt before the date of the Commission to be valid notwithstanding any act of Bankruptcy, provided the party dealing with him had no notice of such act of Bankruptcy; also s. 38 as to payments made by the Bankrupt. But this Act 7 V. c. 10, is now repealed excepts as to certain special cases.

With regard to Sect. XX, see the notes on preceding Sections as to the registration of general hypothecs, in cases where they may still subsist. Is the Memorialist bound to point out the property against which they are to be registered, and the Registrar to enter and index them accordingly?—Or, may they be registered as general hypothecs upon all the property of the debtor in the District? (compare the forms of memorial given in Schedule IV, Nos. 6 and 7.) In either case it would seem that they may be registered at any time, subject to the provisions of the Ordinance and of the Law as to priority?

With regard to Sect. XX, see 12 Vic. c. 48, allowing Registrars of Quebec and Montreal to keep separate Registers for various classes of deeds; also, 19 Vic. c. 15. providing for the minute or day book being authenticated.

Section XXI affects hypothecs created before the Ordinance came into effect. See Girard v Blais & divers opposants 2. L. C. Reports p. 87.—With regard to the time within which such hypothecs must be registered, see Sect. IV. and notes on it; and also the next Sect. (XXII.)

With regard to Sect. XXI, see 7 V. c. 10. s. 79, as to the registration of the contracts of marriage of persons being or becoming traders, making them void against creditors if not registered within a certain time, but providing that marriage contracts already registered in Lower Canada need not be again registered under the said Act.

With regard to Sect. XXII. the Subrogate Tutor seems to be bound by it although appointed before this Ordinance came into force? With reference to this Section, see Sect. XXIX, under which the hypothecs against Tutors and Curators will be general, unless specially restricted under Sect. XXVI or XXVII:—and this generality would extend to future property also? With regard to Sect. 22, see 12 Vic. c. 48 repealing all of this section that relates to relations and friends.

With regard to Sect. XXIII, and as to the time within which the hypothec must be registered so that there may be no danger of losing the privilege by delay, see Sect. I, if it be created before the Ordinance came into force, and Sect. IV and notes, if it be created after that time.

With regard to Sect. XXVI,—providing for cases where the hypothec shall not have been restricted in the first instance, and which appears to apply also to hypothecs resulting from appointments made before the passing of the Ordinance.

With regard to Sect. XXVIII, see 16 Vic. c. 206 by which this section is not to apply to donations subject to life rents, or to charges appreciable in money.

With regard to Sect. XXIX, see notes on Sect. IV. and also, Sect. LII, *in fine*, from which it appears that the hypothec in favor of the Crown may be undefined in amount, as well as tacit and general?—*Query*, whether the fixing of the time from which the hypothec in favor of the wife for “dotal sums &c.” shall be accounted, dispenses with the obligation to register it,—other hypothecs, though tacit and general requiring registration, and (if created after the Ordinance came into force) having priority only according to date of registration.—See more especially Sect. XXI, as to Tutors and Curators, and Sect. LII, as to the Crown; also Sect. XXXI.

With regard to Sect. XXVIII, see as to other hypothèques—

- 4. W. IV. c. 33 } (Mutual
- 6. W. IV. c. 33 } Assurance Companies.)
- 6. Vic. c. 15. §. 2. (Reg. Ord. Amendment.)
- 8. Vic. c. 42. §. 2. (Commutation money.)
- 9. Vic. c. 27. §. 36. (Elementary Instruction.)
- 9. Vic. c. 62. §. 18. (Quebec Fire debentures.)
- 13-14 Vic. c. 40. §. 41. (Agricultural Act.)
- 13-14 Vic. c. 44. §. 5. (Cotisation for Churches, &c.)
- 14-15 Vic. c. 128. §. 77. (Assessments in Montreal.)
- 14-15 Vic. c. 130. §. 1 and 2. (ditto in Quebec.)
- 16 Vic. c. 25. §. 3. (Montreal fire loan.)
- 18 Vic. c. 3. §. 27. (Seignal. Act *rentes constituées*.)
- 18 Vic. c. 75. (Seed, grain &c. temporary)
- 18 Vic. c. 100. §. 52. P. 9. (Assessments to Municipalities.)
- 18 Vic. c. 100. §. 67. (Land taken for Muniel. purposes.)

and the various Railroad Company Acts allowing mortgages of Rail roads & Railway Companies' property by debentures.

From Section XXX it would appear that the words “Act or Judicial proceeding” do not refer to nominations of Tutors, Curators &c. or can restrain the hypothèque resulting from these nominations to the property then possessed by the Tutor, &c.

The priority of a hypothèque derived from a Judgment rendered after the 31st Decr. 1841, would appear to be accounted from the date of registration and not from that of the Judgment, under the general provision in Sect. I. 1.—It would be *general* against the property in possession of the debtor at the time it was rendered; without specifying any property in particular?—(See Schedule IV, Nos. 6 and 7.)—Sect. XXXI seems to create another exception to the general rule adopted in Sect. XXIX, by continuing legal and tacit (though not general) hypothecs, in certain cases not so provided for in Sect. XXIX.—*Query*, as to the form of the memorial in such cases; in all of which however, the Legislature appears to have been careful that there should be a written instrument to which such memorial must relate?

With regard to Sect. XXXIII, see 14 & 15 Vic. c. 93, ordering, with reference to donations made before or since 31st December 1841, that registration either by memorial or at full length shall avail as insinuation,—and see 18 Vic. c. 101, substituting registration for insinuation and reading of substitutions.

With regard to Sect. XXXIV,—it is repealed by 12 Vic. c. 48, as if it had never been enacted.

With regard to Sect. XXXV, see Sect. XXXVII, as to the property upon which the right to customary dower shall be exercised.—*Query*, as to the application of these two Sections, with regard to property held by a French tenure, in case of children being issue of a marriage contracted (and born) before the Ordinance came into force, in whom and not in the Wife, the law under which the marriage was contracted vested the *property* of the Dower when open? And if the Sections be applicable to such cases.

With regard to Sect. XXXVII, it was held, in *Moreau & Mathews*, Sup. Court, Montreal, 1854, that alienation by the Husband & Wife before 1841, without express release of Dower by the Wife, did not discharge the dower of the children, (In this case the dower opened in 1853.)

With regard to Sects. XXXV & XXXVII, see 8 V. c. 27, ss. 3 & 4, declaring that the words "legal" and "customary" dower in sect. XXXV, or any other part of the Ordinance, shall be construed as well in past transactions as for future, to include stipulated (*préfixe*) or conventional dower,—and that dower of either kind may be released by an instrument passed subsequently to the deed alienating the property, whether such deed have been passed before or after the passing of the Act or of Ordinance.

With regard to Sect. XXXV,—see 16 Vic. c. 206, s. IX, ordering that provisions of this Section shall apply also to Hypothecations by Husbands.

With regard to Sect. XXXVIII, see 7 V. c. 22, S. 11, providing a simple form of creating an Hypothec on lands held in free and common socage.

With regard to Sect. XL, see Sections XI, XIX, XX, &c.—as to the duty of Registrar on receiving a memorial, the mode and order of registration, the authentication of the Books, and as to the certificate, index, &c.—the requirements of which would appear to extend to the registration at length, so far as they may be consistent with this Section; such registration being deemed a registration by memorial, under Sect. XLIV.—The mode of registration provided by this Section seems to have many advantages over that by memorial, inasmuch it does not throw the responsibility of determining whether the memorial truly sets forth the legal effect of the instrument, either upon the parties or the Registrar;—a question which may be sometimes one of no ordinary difficulty, more especially with regard to legal, tacit, or general hypothecs, privileges, &c.

With regard to Sect. XL, see 7 Vic. c. 22, S. 5 & 6, providing that all documents whether passed before Notaries or Witnesses may be registered at full length,—that if the Document be a Notarial instrument or a judicial act or proceeding, or any matter of record, it may be registered on the mere production of a Notarial or duly authenticated copy, without any requisition in writing,—and that such registration shall preserve the rights of all parties interested in the document registered.

With regard to Sect. XLII, see 19-20 Vic. c. 88, s. 2, as to proof in U. C. for purposes of registration in Lower Canada.

With regard to Sect. XLV, see 7 V. c. 22, s. 8, providing for the registration of partial discharges, which (as well as of total discharges) may be made on the production of the Certificate mentioned in the Ordinance, or of a Notarial Instrument or Judicial proceeding proving such discharge,—and giving an action to the party discharged to obtain from the incumbrancer a certificate or document which can be so registered.

With regard to Sects. XLV and XLVI, see also 16 Vic. c. 206, giving an action for obtaining the cancellation of registrations, in the cases therein set forth.

With regard to Sect. LI, see 10 and 11 Vic. c. 9, s. 22, which repeals from after 31st Decr. 1847, so much of this section as relates to forging and counterfeiting, except as to offences committed before or upon said 31st Decr.

With regard to Sect. LII, see Sect. XXIX, allowing tacit and legal hypothecs in favor of the Crown; and also the notes on Sect. XX.

With regard to Sect. LII, see the preceding notes on Sects. X, XI, XII, & XIII, and on Sect. XL, as to the parties by whom or at whose instance, &c. registration may be effected.

Sect. LV, appears to afford the means of ensuring uniformity of practice in the several Registry Offices. See also 18 Vic. c. 99, s. 7, providing for the Inspection of the Registry Offices, and the vaults and safes of them.

Any objection founded on the words of Sect. LVI, to the issuing of the Proclamation under Sect. LVII, appears to be removed by the Union Act, s. 45, enacting that any act which might be done by the Governor of Lower Canada, may be done by the Governor of Canada, which s. 61 of the same Act interprets to mean any person administering the Government of Canada—un-

der Sect. LVII, Sir B. D. Jackson, then Administrator of the Government, issued the Proclamation of the 18th December, 1841, dividing Lower Canada into Districts for the purposes of this Ordinance, appointing the places where the Registry Offices shall be kept, and fixing the 31st December, 1841, as the day from and after which the Ordinance should have force and effect.

With regard to Sect. LVIII, the Ordinance first therein cited is repealed by 4 & 5 V. c. 20, s. 91.

6 Vic. c. 15, 1842.—REGISTRATION.

Sec. 1.—prolongs to 31st December, 1843, the time for registering fixed by 4 Vic. c. 30, and provides that deeds not registered by that time shall be null as against purchasers, creditors, &c., whose deeds shall be registered before such deeds are, afterwards, registered.

Sec. 2.—provides that for arrears of *cens, lods, retrait seigneurial conventionnel*, and other Seigniorial servitudes, registration need not be made—(See 18 Vic. c. 103, Sec. 4, by which this *Retrait Conventionnel* is abolished—and 18 Vic. c. 3, Sec. 27, by which are exempted from Registration the *Rentes Constitues* there mentioned.)

7 Vic. c. 22, 1843.—REGISTRATION.

Sec. 1. repeals Sec. 5 and part of Sec. 58 of 4 Vict. c. 30.

Sec. 2 provides for Registry Offices in each County.

Sec. 5. Introduces mode of registering all Deeds &c. by transcription.

Sec. 7. seems abrogated by 8 Vic. c. 27 giving, in Sec. 1, a different form for certificate.

Sec. 8. Provides for entries of partial discharges of hypothecs.

Sec. 9.—provides that registration of a *title* to land posterior to that of a proprietor in open possession shall be null against such proprietor; tho' he may not have registered. (See also 8 Vic. c. 27, Sec. 7, which enacts the same thing as against mortgages posterior to the title of a person in open possession, &c.)

Sec. 10.—explains Sec. 16 of 4 Vic. c. 30 relating to memorials for arrears of interest. But can this apply to Acts passed before 4 Vic. c. 30, and registered before 1st November, 1844? See 1. L. C. R. Page 489.

Sec. 11. provides a mode for mortgaging lands by deeds before witnesses.

Sec. 12.—extends to 1st Novr., 1844, the period for registering old deeds &c.

7 Vic. c. 23.—REGISTRATION.

Annexes Isle Bizard to the Registry district of Montreal.

8 Vic. c. 27, 1845. Temporary.—REGISTRATION.

Sec. 1 provides by whom memorials may be made, how they may be attested, &c., and gives a form for certificate after registration of a memorial.

Sec. 3 interprets the words *douaire legal et coutumier* in 4 Vic. c. 30, s. 35.

Sec. 4.—Married women, of age, may renounce dower by separate deed as well as by joining in the original deed of Sale—(See 16 Vic. c. 206, Sec. 9, for case in which husband merely hypothecates land.)

Sec. 7. Registry of title, or mortgage, posterior to title of a person in open possession as proprietor shall not affect this person; tho' he may only register after such subsequent purchaser or creditor.

8 Vic. c. 28, 1845.—REGISTRATION.

Detaches Island of Orleans from County of Montmorency, and established an Office in the Island.

Sec. 4. orders Registrar to give security for £2000 but the effect of 18 Vic. c. 99 and 19-20 Vic. c. 102 is to reduce this to £1000.

12 Vic. c. 48, 1849.—REGISTRATION.

Section 1 abrogates great part of 4 Vic. c. 30, Sec. 22, and the whole of Sect. 34.

Sec. 2 authorizes Registrars of Quebec and Montreal to keep separate books for registration at full length of Bonds in favor of the Crown, Wills, Contracts of Marriage, Tutelles, Judgments, Exchanges, Leases for more than nine years, and divers other Acts and Mortgages.

Sec. 3—allows Deputy Registrars to resign—also provides for the cases of their dismissal, and appointments of new ones, and fixes a penalty on Registrar not naming new one.

14 & 15 Vic. c. 93, 1851.—REGISTRATION.

With regard to Sec. 2. see 19-20 Vic. c. 102 which only requires Registrars of Counties, (other than Quebec, Montreal, Three Rivers, and Sherbrooke,) to become bound in £1000, instead of, as here, £2000.

Sec. 4—substitutes Registration for insinuation of Donations *entre-vifs*.

Sec. 5—seems to give Registrar of Division No. 2 of Megantic a privilege over all others.—He may live at any distance from his office, whereas, under Sec. 3, all other Registrars must reside within five leagues of their Offices.

16 Vic. c. 206, 1853.—REGISTRATION.

Sec. 1. provides that where a claim is unjustly registered against a person, he may sue and get the claim declared null, and *radiation* of it ordered.

Sections 5 and 6 provide for an omission in the original law, oblige *baillleurs de fonds* to register, and fix a time for registration.

Sec. 7, with reference to Sec. 28 of 4 Vic. c. 30, and to its prohibition of general hypothecs, orders that it shall not apply to donations *entre-vifs* subject to *rentes viagères*, or charges appreciable in money.

Sec. 9—extends case of Sec. 35 of 4 Vic. c. 30 to the case of a husband merely *hypothecating* land. Must the wife join in the very deed of mortgage, or may she, by a subsequent deed, operate the same thing? (Compare with 8 Vic. c. 27. Sec. 4.)

18 Vic. c. 99.—REGISTRATION.

This Act provides for the establishment of a Registry Office in each of the Electoral Counties, on certain conditions.

18 Vic. c. 101.—REGISTRATION.

Substitutes registration for insinuation and publication of substitutions.

19-20 Vic. c. 15, 1856.—REGISTRATION.

Sec. 2 introduces a new mode of registering: by extracts from Notarial deeds. Sec. 4 provides for the case of a memorialist not knowing how to sign.

19-20 Vic. c. 88, 1856.—REGISTRATION.

Provides for proof in Upper Canada of execution of any deed, will &c. or memorial, for purposes of Registration in Lower Canada—(adding to 4 Vic. c. 30. § 12.)

19-20 Vic. c. 102.—REGISTRATION.

Orders penal sums in Bonds of Registrars of Counties hereafter to be £1000; except as regards Montreal, Quebec, Three-Rivers and Sherbrooke, which are to continue as before.

Sec. 2—reduces Bonds of previously appointed Registrars of Counties to £1000; with like exception as before mentioned.

5.—GASPE, TITLES TO PROPERTY IN.

4 Geo. 4, c. 15 ?—GASPE, want of NOTARIES in.—P. Its operation (except that of sect. X) is limited to deeds, &c., made before the passing of the Act; but no time is limited after the lapse of which any such deed is to be excluded from its operation. With regard to sect. X, see 7 G. 4, c. 1, extending the period to 1st July, 1829,—9 G. 4, c. 55, extending it to 1st May, 1832,—2 W. 4, c. 5, extending it to 1st May, 1835,—and 6 W. 4, c. 52, reviving the Section, and continuing the period to 1st May, 1840; and also 3 & 4 V. c. 5, explaining the effect of the said Acts and providing in the like behalf for the future.

6 Will. 4, c. 53.—GASPE, further provision for security of Titles to Real property, &c.

3 & 4 Vic. c. 5.—GASPE, to provide permanently for want of Notaries, &c.

10 & 11 Vic. c. 30.—GASPE, for relief of landholders in *seems effete*.

6.—LETTERS PATENT FOR LAND.

36 Geo. 3, c. 3.—LETTERS PATENT FOR LAND.—Amended by 57 G. 3, c. 28—9 G. 4, c. 56, and 14, 15 V. c. 16. Sect. 2 is repealed by 9 G. 4, c. 56.

With regard to sect. 1, see 14 & 15 Vic. c. 16, substituting Registrar of the Province for the Secretary, *and see*, with reference to this sect. and sect. 3, the 14 & 15 Vic. c. 16, sec. 1, by which Letters Patent are now delivered to grantee, first being copied in a Register by the Registrar of the Province, &c.,—“enrollment” is not required.

The parts of sects. 3 and 4, regulating the fees are repealed by 57 Geo. 3, c. 28.

57 Geo. 3, c. 28.—LAND PATENTS.—Amending 36 Geo. 3, c. 3.

9 Geo. 4, c. 56.—LAND PATENTS.—Repealing and amending parts of 36 Geo. 3, c. 3.

14 & 15 Vic. c. 16.—LAND PATENTS; and to amend 36 Geo. 3, c. 3.

7.—LESSORS AND LESSEES.

18 Vic. c. 103.—LESSORS' AND LESSEES' ACTS, consolidated. GENERAL ABOLITION OF FEUDAL RIGHTS.

48 Geo. 3, c. 6.—LETTRES DE TERRIER.—Repealed as regards the Seigniories to which the Seigniorial Acts of 1854 and 1855 apply; by 18 Vic. c. 103, s. 2.

18 Vic. c. 3.—SEIGNORIAL TENURE, to provide for abolition of.—It repeals 8 V. c. 42, and 12 V. c. 49, except as regards certain seigniories.—Amended by 18 V. c. 103, and 19, 20 V. c. 53. Par. 7 of section 6 is repealed by section 2—section 10 by section 4—part of section 11 by section 5—of 19, 20 V. c. 53, and part of section 35 relating to lands *en franc alev noble* by 18 V. c. 103, s. 7.

With regard to par. 2 of sect. VI, when the rule in it cannot be applied, the Commissioner may adopt any other mode of estimating the yearly value, see 19 & 20 Vic. c. 53, sec. 1.

With regard to sect. 7 any one Commissioner may give the notice, see 18 Vic. c. 103, sec. 6.

- With regard to sect. XI, see 19 & 20 Vic. c. 53, sec. 5, ordering where the Schedule shall be left for examination, and how errors may be pointed out and objections made.
- With regard to par. 4 of sect. 12, see 19 & 20 Vic. c. 53, sec. 6, by which this prohibition is limited to the Commissioner who shall have "finally completed" the Schedule.
- With regard to pars. 5 and 6 of sec. 12, they are repealed by sec. 7 of 19 & 20 Vic. c. 53, which in its sec. 8, fixes a time for application for revision of any Schedule, and regulates the proceedings.
- With regard to sec. XIV, see sec. 3 of 18 Vic. c. 103 abolishing *lods et quint*, and mutation fines, or mutations after 30th May, 1855, in the Seigniories to which this Act applies; and as to the proviso at end of this sec., see the 19 & 20 Vic. c. 53, sec. 17, which makes other provisions, and speaks from 19th June, 1856.
- With regard to sec. 22, see 19, 20 V. c. 53, sec. 19, which orders that it shall read as if the words "by the Receiver General" had never been inserted here. The notice is to be by the Commissioner who shall have made the Schedule; and in sec. 26 the Receiver General is, again, erroneously mentioned. The words in italics must be considered out, see 19, 20 Vic. c. 53, s. 6.
- With regard to sec. 28, see 18 Vic. c. 103, sec. 1, allowing any constituted rent to be redeemed, even *without* consent of the Seignior, and regulating the disposal of the capital.
- And with regard to sec. 29, see same sec. 1 of 18 Vic. c. 103.
- With regard to sec. 35 and the Seigniories held by the Crown, see sec. 8 of 18 V. c. 103—also sec. XI of 19, 20 V. c. 53. As to the lands in *franc aleu noble* referred to, see sec. 7 of 18 V. c. 103.
- 18 Vic. c. 103.—SEIGNIORIAL TENURE, abolition of.—It amends 18 V. c. 3, *which see*. Section 3 is extended to Crown seigniories by section 11, and amended by sections 12 and 13 of 19, 20 V. c. 53.
- 19 & 20 Vic. c. 53.—SEIGNIORIAL TENURE, abolition of.—It amends 18 V. cc. 3 and 103, *which see*.

9.—COMMUTATION OF SEIGNIORIAL TENURE IN CERTAIN SEIGNIORIES.

- Vic. c. 27.—SEIGNIORIAL TENURE, to empower Seigniors of Fiefs Nazareth, St. Augustin and St. Joseph, to commute the tenure in those Fiefs.
- 8 Vic. c. 42.—SEIGNIORIAL TENURE, optional commutation of.—This Act and 12 V. c. 49, are repealed by 18 V. c. 3, s. 1, except as regards certain seigniories referred to in sect. 35 of the last mentioned Act, (as amended by sect. 7 of 18 V. c. 103); but all acts done under them are to have same effect as if the said Acts had not been repealed. Sect. 23 is repealed by 16 V. c. 207.
- With regard to sect. 3, see 12 V. c. 49, freeing Religious, Ecclesiastical and other corporate bodies from obligation to give copy to Rec. Genl., or to pay into his hands any indemnity, &c.
- With regard to sect. 9, the Superior Court is now substituted for the "Queen's Bench."
- Part of sect. 17, is repealed by 12 Vic. c. 49, s. 1; and as regards the Proviso at end of the sect., it is repealed as regards the commutation of any Seigniorial rights held in mort-main, or by any Corporation.
- Sect. 23 is repealed by 16 Vic. c. 207.
- The Proviso at the end of sect. 24 is repealed as regards those who hold in mort-main, and Corporations, by 12 V. c. 49.
- 8 Vic. c. 43.—SEIGNIORIAL TENURE.—It amends 7 V. c. 27, by enabling the Seigniors to invest commutation moneys in a certain manner.
- 10 & 11 Vic. c. 111.—SEIGNIORIAL TENURE, commutation of in the Queen's Domain.—30th Oct., 1847. *But see* 18 V. c. 3, s. 35, and c. 103, s. 8,—and 19, 20 V. c. 53 granting the same advantages to the *Censitaires* of Crown Seigniories as are given to those of other seigniories by the Seigniorial Act, and abolishing *lods et ventes*, &c., in Crown Seigniories. *See also* Imperial Acts 3 G. 4, c. 119—and 6 G. 4, c. 59.
- With regard to sect. 4, and the commutation of the *droits de lods* mentioned in it, observe 19 & 20 Vic. c. 53, sect. 11, by which *lods* have been abolished in the Crown Seigniories on commutations after 30th May, 1855.
- With regard to sect. 5, the Superior Court now is in the place of the Queen's Bench here mentioned.
- With regard to sect. 7, again observe 19 & 20 Vic. c. 53, sec. 11.
- 12 Vic. c. 49.—SEIGNIORIAL TENURE, to amend 8 V. c. 42.

10.—TOWNSHIP LANDS GRANTED IN COMMON.

- 10 & 11 Vic. c. 37.—PARTITION OF CERTAIN TOWNSHIP LANDS in Lower Canada, to facilitate.—Amended by 12 V. cc. 61 and 62. *See also* 20 V. c. 139 as to lands in Bolton and Magog.
- With regard to sect. 1, the Superior Court has been substituted for "the Court of Queen's Bench" mentioned in this Act.
- With regard to sect. 2, see sec. 1 of 12 V. c. 61, making new order for the posting up of the Judgment.

With regard to sect. IV, the Court of Queen's Bench has been substituted for the Provincial Court of Appeals referred to.

12 Vic. c. 61.—PARTITION OF TOWNSHIP LANDS.—1st Feb., 1849.—It amends 10, 11 V. c. 37.

The Superior Court has been substituted for the Court of Queen's Bench in this Act mentioned.

20 Vic. c. 139.—BOLTON AND MAGOG, partition of lands in.—It amends 10 & 11 V. c. 37, (*which see*.) as to these Townships.

12 Vic. c. 62.—TOWNSHIP LANDS granted in common, to facilitate remedy in case of trespass.—30th May, 1849. See 10, 11 V. c. 37—with reference to which this Act enables any tenant in common to sue for trespass.

11.—REMEDY FOR TRESPASS OR ILLEGAL DETENTION OF TOWNSHIP LANDS.

14, 15 Vic. c. 92.—SQUATTERS, summary ejectment of.—Amended by 16 V. c. 205, and continued to 1st January, 1858, and end of next session by 18 V. c. 85—19, 20 V. c. 75—20 V. c. 16.

With regard to sect. 1, see 16 V. c. 205, sec. 1, allowing defendant an evocation in all cases before pleading.

With regard to sect. 5, see sect. 5 of 16 V. c. 205.

With regard to sect. 7, see 3 of 16 V. c. 205, allowing *fruits et revenus* to any amount to be also claimed, also damages, and sect. 4 allowing defendant to claim for ameliorations, to any amount.

16 Vic. c. 205.—SQUATTERS, summary ejectment of.—It amends 14, 15 V. c. 92, *which see*, and is continued with it.

12.—LANDS OF INDIANS.

13 & 14 V. c. 42.—INDIANS, for the protection of lands and property of.—Amended by 14, 15 V. c. 59, which repeals section 5. See also 14, 15 V. c. 106.

See also 20 V. c. 26 providing for the enfranchisement of Indians.

14 & 15 Vic. c. 59.—INDIANS, protection of lands and property of.—It amends 13, 14 V. c. 42, *which see*.

14 & 15 Vic. c. 106.—INDIAN LANDS. To set apart lands for Indians in Lower Canada.

13.—LICITATIONS.

16 Vic. c. 203.—LICITATIONS, VOLUNTARY, proceedings in regulated.—The latter part of sect. 1, touching the *avis de parents* is further explained by 18 V. c. 17.

18 Vic. c. 110.—LICITATIONS, FORCED, regulated. See 14-15, Vic. c. 60, s. 2, as to mode of proceeding to licitation of real estate situate partly in one District or Circuit, and partly in another.

14.—IMMOVEABLES OF UNKNOWN OR UNCERTAIN OWNERS.

18 Vic. c. 106.—HYPOTHECARY ACTIONS; proceedings where proprietor of land is unknown, or uncertain.

15.—OPPOSITIONS *AFIN DE CHARGE* ALLOWED FOR CERTAIN RENTES.

19 & 20 Vic. c. 59.—RENTES CONSTITUTEES or VIAGERES, secured by privilege of *bailleur du fonds*, Oppositions *afin de charge* may be filed for.

16.—IMPROVEMENT OF WATER COURSES.

19 & 20 Vic. c. 104.—WATER-COURSES, to authorize improvement of.—See also 18 V. c. 3, s. 15—and the said Act generally as abolishing the Seigneur's privilege in water-courses.

17.—LAW *ÆDE* REPEALED.

16 Vic. c. c. 204, 1853.

18.—RETRAIT LIGNAGER ABOLISHED.

18 Vic. c. 102, 1855.

19.—TITLES OF CERTAIN PERSONS NATURALIZED SECURED.

12 Vic. c. 198, 1849. Parties having complied with Act 1, W. 4. c. 53 maintained in their properties possessed at the time of the passing of that Act as heirs or legatees of Aliens.