

No. 51.

1st Session, 6th Parliament, 21 Victoria, 1858.

BILL.

An Act to amend the Act respecting mortgages and sales of personal property in Upper Canada.

Received and read, first time, Monday, 19th
April, 1858.

Second reading, Thursday, 22nd April, 1858.

MR. CLARKE.

TORONTO:
PRINTED BY JOHN LOVELL, YONGE STREET.

An Act to amend the Act respecting mortgages and sales of personal property in Upper Canada.

WHEREAS it is expedient to amend the Act respecting mortgages and sales of personal property in Upper Canada, in the manner hereinafter provided; Therefore Her Majesty, &c., enacts as follows:

Preamble.

5 I. So much of the fifth section of the Act passed in the twentieth year of Her Majesty's reign, intituled, *An Act to amend the statutes of this Province respecting mortgages and sales of personal property in Upper Canada, and to consolidate the same*, as provides that where the mortgager or bargainer is resident in Upper Canada, the instruments mentioned in the preceding sections of the said Act shall be registered in the office of the Clerk of the County Court of the County or Union of Counties where the mortgager or bargainer shall reside at the time of the execution thereof;—shall be repealed upon, from and after the first day of October, in the present year 1858, as regards all such instruments to be registered on or after that day: And upon and after the said day every such instrument as aforesaid shall be registered in the office of the Clerk of the Township or united Townships, city, town or incorporated village, in which the mortgager or bargainer shall reside at the time of the execution of such instrument, whenever such mortgager or bargainer is a resident in Upper Canada; and as regards all such instruments to be registered upon or after the said day, such Clerk and all other persons shall have the same rights, powers, duties and liabilities, and such registration or the omission thereof shall have the same effect, and the said Act shall be construed in the same manner, as if the said third section thereof directed the registration thereof to be made as herein provided, and not in the office of the County Clerk.

Such mortgages and sales to be registered, in certain cases, in the office of the Township Clerk, instead of the County Clerk,—under 20 V. c. 3.

II. The seventh section of the said Act shall apply only to cases where the mortgage is registered in the office of the Clerk of a County Court; and whenever the mortgage is registered as provided in the first section of this Act, then in the event of the permanent removal of goods and chattels so mortgaged from the Township or Union of Townships, city, town, or incorporated village in which they were at the time of the execution of such mortgage, to another Township or Union of Townships, city, town, or incorporated village, before the payment and discharge of such mortgage, a certified copy of such mortgage under the hand of the Clerk of the Township, Union of Townships, city, town or incorporated village in whose office it was first registered, and under the corporate seal of the municipality, and of the affidavits, documents and instruments relating thereto and filed in such office, shall be filed with the Clerk of the Township, Union of Townships, city, town

Sect. 7 of the said Act amended as to goods removed from the Township where the mortgage is registered.

or incorporated village to which such goods and chattels are removed, within two months from such removal, otherwise the said goods and chattels shall be liable to seizure and sale in execution, and in such case such mortgage shall be null and void as against subsequent purchasers and mortgagees for valuable consideration, as if never executed. 5

As to the renewal of registration at the end of the year, under sec. 8, of the said Act.

III. The copy of any mortgage registered under the first section of this Act, and the statement of account and affidavits, required by the eighth section of the said Act to be again filed within the period therein mentioned in order to preserve the mortgage, shall be filed in the office of the Clerk of the Township, Union of Townships, city, town or incorporated village, wherein the goods and chattels mortgaged are then situate, with the same effect, and under the same penalty for not filing them, as provided in the said section with respect to mortgages registered in the office of the Clerk of a County Court. 10

Certificates of Clerks of Townships and as to instruments registered under this Act.

IV. The certificate of the Clerk of the Township, or Union of Townships, city, town or incorporated village in whose office any instrument or document is filed under this Act, and the seal of the municipality, shall have the same effect, with regard to any such instrument or document or any copy thereof, as by the ninth section of the said Act is given to the certificate of the Clerk of the County Court under the seal of the Court, with regard to instruments or documents filed in his office or any copy thereof. 15
20