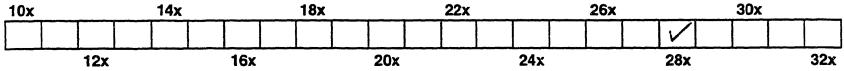
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2nd Session, 5th Parliament, 19 Victoria, 1856.

BILL.

An Act to make better provision for the administration of the property of Minors, Absentees, interdicted persons, and others incapable of administering their own affairs, in Lower Canada.

Received and 'read, first time, Friday, 7th March, 1856.

Second reading, Monday, 10th March, 1856.

MR. BUREAU.

TORONTO: PRINTED BY JOHN LOVELL, YONGE STREET.

An Act to make better provision for the administration. of the property of Minors, Absentees, interdicted Persons, and others incapable of administering their own affairs, in Lower Canada.

HEREAS it frequently happens that Minors, Absentees, and per- Preamble. sons incapable of administering their real and personal property, are exposed to considerable loss and damage through the negligence of their Tutors and Curators, from the want of importance attached to the 5 choice of such Tutors and Curators, and it is necessary to make Legislative provision in this behalf; Therefore Her Majesty, &c., enacts as follows:-

I. No person shall hereafter be appointed Tutor or Curator to any Minor, Tutors or Cu-Absentee, or other person considered incapable of administering his rators must be real and personal property, unless he shall be the proprietor of real estate, real estate 10 equal in value, after the payment of all debts and hypothecary charges, to equal to perthe personal property possessed by, or belonging to such Minor, Absentee, sonal properor person considered incapable of administering his property as aforesaid: ty of minors.

II. Tutors and Curators shall not hereafter act as Tutors and Curators, Acts appointnor discharge any of the duties attached to their said office, until the Act ing Tutors or nor discharge any of the duties attached to their said office, until the Act Gurators to be 15 of Tutorship and Curatorship, appointing and electing them Tutors and duly register-Curators, shall have been duly enregistered, in order to the creation in the ed. first place of a hypothec upon the real estate of the said Tutors and Curators in favor of the said Minors, Absentees, interdicted persons, or persons deemed incapable as aforesaid, in conformity with the laws regulating the 20 mode of enregistering the said Acts of Tutorship and Curatorship.

III. Tutors and Curators, after having caused the said Acts of Tutorship Tutors and and Curatorship to be enregistered in the manner paescribed by the foregoing Section, shall be bound to appear before a Justice of the Superior or gistrar's certi-Circuit Court for Lower Canada, and shall produce the authentic certificate ficate before a 25 of the Registrar or Registrars, in conformity with the law, and such Tu-Justice of the tors or Curators shall swear, that the registration of the said Acts of Court. Tutorship and Curatorship has been duly made in accordance with the foregoing Section, which oath shall be made in the manner set forth in the Schedule A. And the said Tutors and Curators shall thereupon be invested in with their said charges as Tutors and Curators.

IV. Persons named and appointed at any meeting of relations and friends, Declaration to to be Tutors and Curators as aforesaid, shall make and subscribe the be made predeclaration B (second schedule of this Act), in the presence of the said pointment as meeting of relations or friends, assembled and sworn for the appointment Tutors, &c. 35 of the said Tutors and Curators, and in case the persons so called and appointed to the said offices of Tutors and Curators shall be unable to make and subscribe the said declaration, they shall be then ineligible to the said charges of Tutorship and Curatorship.

Qualification not required in certain cases at discretion of Judge. V. It shall not be necessary that the fathers and mothers, husbands and wives of the said Minors, Absentees, or persons incapable of administering their said personal and real property as aforesaid, shall possess the property qualification hereinabove prescribed, if the said fathers and mothers, husbands and wives shall not have in their possession, or be proprietors of 5 any real estate; unless the Judge, with the advice of the relations and friends, shall decide the contrary, by the appointment, for instance, of an honorary and onerary Tutor, in accordance with the representation or suggestion made to that effect, to a Judge of the Superior or of the Circuit Court.

Proceedings to deprive Tutors, &c., of office.

VI. Within three months after the passing of this Act, Tutors and Curators possessing immoveable property, appointed to their said offices before the passing of this Act, who shall have neglected or refused to cause the Act of Tutorship or Curatorship appointing them such Tutors and Curators to be enregistered according to law, shall be liable to be deprived 15 of their said offices, upon simple declaration (requête libellée) in the form C, addressed to one of the Judges of the Superior or of the Circuit Court, who shall fix the day, place, and hour for the hearing of and adjudication upon the merits of the said declaration (requête libellée) after due service of the said declaration and of the order of the Judge duly certified at the 20 foot of the said declaration by the proper officer, shall have been made upon the said Tutors and Curators; the cancelling of whose appointment of Tutorship and Curatorship is prayed for.

Form of judgment. VII. The discharge from office, if the same be pronounced after hearing of the parties interested, shall be established by a judgment in the form of 25 schedule D.

Proceedings in case of cancelling of acts of Tutorship, &c.

VIII. Whensoever the cancelling of an act of Tutorship or Curatorship shall be prayed for a lawful reason and for the advancement of the interests of Minors, Absentees or other persons incapable of administering their property, the proceedings against such Tutor or Curator shall be summarily 30 had by a declaration (requete libellée) addressed to one of the Judges of the Superior Court or of the Circuit Court for Lower Canada, and the mode of proceeding shall be the same as that prescribed in the two preceding sections.

When this Act comes into force.

IX. This Act shall come in force on the

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FORM B.

I, A. B., of the Parish of in the County of in the District of being duly sworn upon the Holy Evangelists, do depose and say:—

That I hold and possess as proprietor, in the City, (Town or Parish) of the real estate following [particular description of the said property.]

that the said real estate is worth at least £, that it has been assessed by the Municipal (or School) Assessors at the sum of £, that the said property, after deducting all hypothecary debts with which it is charged, is, to the best of my judgment and knowledge, at least equal in value to the moveable property in the possession of or belongidg to for whom it is proposed, at the meeting now held for that purpose, that I should be elected Tutor and Curator.

And further Deponent saith not.

Sworn before me at this day of

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FORM C.

FORM D.