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[No. 154.]

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2nd Session, 7th Parliament, 26 Victoria, 1863.

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## BILL.

**An Act to amend Chapters Thirty-six and Thirty-seven of the Consolidated Statutes for Lower Canada, and the Act Twenty-five Victoria, Chapter Eleven, respecting the registration and redemption of hypothecs in Lower Canada.**

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Received and read first time, Friday, 13th  
March, 1863.

Second reading, Monday, 16th March, 1863.

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Hon. Mr. Atty. Genl. SICOTTE.

An Act to amend Chapters Thirty-six and Thirty-seven of the Consolidated Statutes for Lower Canada, and the Act Twenty-five Victoria, Chapter Eleven, respecting the registration and redemption of hypothecs in Lower Canada.

**W**HEREAS by certain provisions of the Acts hereinafter mentioned, it is required that in cases of application for confirmation of Titles, Sheriff's Sales, or Forced Licitation, of Real property in Lower Canada, certificates from the proper Registrars, shewing the privileges and hypothecs registered against such property, shall be filed; And whereas the said provisions have in practice been found inexpedient and productive of great inconvenience, unnecessary expense and delay: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

1. No applicant for confirmation of Title, no Sheriff having the execution of any Writ under which any real estate is to be sold, nor any party prosecuting any Forced Licitation of any Real Estate, shall hereafter be bound to file or shall file any Registrar's Certificate of the hypothecs registered against such real estate or against any party who has been proprietor of such real estate or his *auteurs*; and so much of the Acts hereinafter mentioned, or either of them, or of any other Act or law as requires or authorizes the filing of any such certificate in any such case as aforesaid, is hereby repealed.

Certain parties relieved from obligation to file Registrar's Certificate.

2. And in pursuance of the general enactment made in the next preceding section, the following amendments are hereby made in Chapter Thirty-six of the Consolidated Statutes for Lower Canada, intituled: "An Act respecting confirmation of Titles, the discharge of Incumbrances on Real Estate by Sheriff's Sale or Licitation, and the rights of Purchasers fearing trouble,"—that is to say:

Amendments made to Cap. 36 of Con. Stat. L. C.

1. In the second subsection of section one, the words—"whose claims the Registrar is not bound to include in his certificate hereinafter mentioned, and,"—are repealed;

In Sect. 1.

2. In the first paragraph of section two, the words—"and the registration of which hypothec the Registrar is not bound to include in his certificate hereinafter mentioned,"—are repealed;

In sect. 2.

- S. 6 repealed.      3. Section six is repealed ;
- In sect. 7.          4. So much of section seven as would require the applicant for a judgment of confirmation to obtain from any Registrar the certificate therein mentioned, is repealed ; and such certificate shall only be obtainable from the Registrar under the provision of section thirty of the said Act ; and the form of such certificate shall be altered accordingly ; 5
- In sect. 12.        5. In the first paragraph of section twelve, the words,—“ the hypothec mentioned in the Registrar’s certificate, and ”—are repealed ; 10
- In sect. 12.        6. In the second subsection of section twelve, the words—“ when he files such certificate,”—and the words,—“ and if it appears by the Registrar’s certificate filed as aforesaid, that there are no charges on the property,”—and the words—“ in the said certificate and ”—are repealed ;—and in the place of the words—“ when he files such certificate,”—so repealed, the words—“ when he files his application for Confirmation of Titles,”—are hereby substituted ; 15
- In sect. 15.        7. In the fifteenth section all the words, after “ subject to his claim,” are repealed ; 20
- In sect. 16.        8. In the sixteenth section the words,—“ and the registration of which hypothec the Registrar is not bound to certify as aforesaid,”—are repealed ;
- In sect. 18.        9. In the eighteenth section the words,—“ and the claim for which the Registrar is not bound to mention in his certificate aforesaid,”—are repealed ; 25
- In sect. 19.        10. In the first paragraph of section nineteen the words—“ and the privileged and hypothecary Creditors mentioned in the Registrar’s certificate,”—and the words—“ and as if each of them had filed an opposition according to the practice heretofore in use,” are repealed ; 30
- In sect. 19.        11. The second and third subsections of section nineteen, are repealed ;
- In sect. 21.        12. In the twenty-first section, the words “ Creditors whose names are mentioned in the Registrar’s certificate aforesaid and the ”—are repealed,—and before the words “ hypothecary creditors,”—the word “ opposing ” shall be inserted ; 35
- S. 22 repealed.    13. Section twenty-two is repealed ;
- S. 26 repealed.  
Exception.        14. Section twenty-six is repealed, except only the fourth sub-section thereof, which shall remain in force ; 40

15. The sub-section marked two of section twenty-eight is In sect. 23.  
repealed ;

16. In the Form A in the Schedule, the words : “ and that In Form A.  
unless their claims are such as the Registrar is bound by the  
5 provisions of chapter thirty-six of the Consolidated Statutes  
for Lower Canada, to include in his certificate to be filed in  
this case under the said Act,”—are repealed ;

17. In the Form B in the Schedule, all the words between In Form B.  
“ at the instance of,”—and “ the words G. H. applying for such  
10 certificate under section thirty of the said Act,”—are repealed ;

In the paragraph marked *First* in the said Form, the words  
“ to which the judgment of confirmation—*or* the said notice of  
Sheriff’s sale,—*or* the said notice of licitation is to apply—  
*or*”— are repealed ;

15 In the paragraph marked *Secondly* in the said Form, all the  
words between “ the words ten years next preceding,”—and  
the words, “ the date of the application of the said G. H.” are  
repealed ;

And the following amendments are hereby made in the Act Amendments to  
20 passed in the twenty-fifth year of Her Majesty’s Reign, and 25 V. c. 11.  
intituled : “ An Act to extend and amend the provisions of  
chapters thirty-six and thirty-seven of the Consolidated Statutes  
for Lower Canada, with respect to the Registration of Titles  
to and the removal of the incumbrances upon real estate in  
25 Lower Canada,”—that is to say :

Sections five and six of the said Act are repealed ; SS. 5 & 6 re-  
pealed.

And any enactment or provision in either of the said Acts, Any other  
inconsistent  
provisions  
repealed.  
which is inconsistent with the provisions in the first section  
of this Act, shall be held to be repealed though it be not  
30 specially mentioned in this section.

2. This Act shall not apply to cases of application for cou- As to pending  
cases.  
firmation of title, sheriff’s sale, or forced licitation, in which  
notice has been given before the passing of this Act, in the  
Canada Gazette, in the form required by the Acts hereby  
35 amended, if such cases are proceeded with and returned  
before the Court in virtue and in pursuance of such notice so  
given.