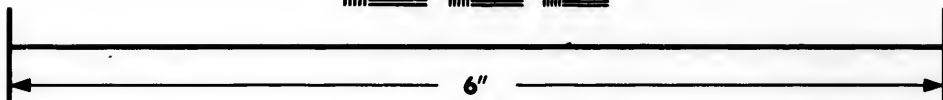
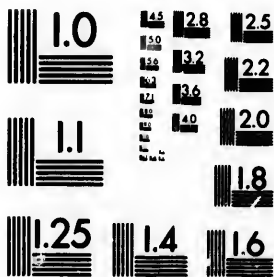


**IMAGE EVALUATION
TEST TARGET (MT-3)**



**Photographic
Sciences
Corporation**

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

0
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**CIHM/ICMH
Microfiche
Series.**

**CIHM/ICMH
Collection de
microfiches.**



Canadian Institute for Historical Microreproductions / Institut canadien de microreproductions historiques

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

© 1984

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.

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.

- | | |
|--|--|
| <input type="checkbox"/> Coloured covers/ Couverture de couleur | <input type="checkbox"/> Coloured pages/ Pages de couleur |
| <input type="checkbox"/> Covers damaged/ Couverture endommagée | <input type="checkbox"/> Pages damaged/ Pages endommagées |
| <input type="checkbox"/> Covers restored and/or laminated/ Couverture restaurée et/ou pelliculée | <input type="checkbox"/> Pages restored and/or laminated/ Pages restaurées et/ou pelliculées |
| <input type="checkbox"/> Cover title missing/ Le titre de couverture manque | <input checked="" type="checkbox"/> Pages discoloured, stained or foxed/ Pages décolorées, tachetées ou piquées |
| <input type="checkbox"/> Coloured maps/ Cartes géographiques en couleur | <input type="checkbox"/> Pages detached/ Pages détachées |
| <input type="checkbox"/> Coloured ink (i.e. other than blue or black)/ Encre de couleur (i.e. autre que bleue ou noire) | <input checked="" type="checkbox"/> Showthrough/ Transparence |
| <input type="checkbox"/> Coloured plates and/or illustrations/ Planches et/ou illustrations en couleur | <input type="checkbox"/> Quality of print varies/ Qualité inégale de l'impression |
| <input type="checkbox"/> Bound with other material/ Relié avec d'autres documents | <input type="checkbox"/> Includes supplementary material/ Comprend du matériel supplémentaire |
| <input type="checkbox"/> Tight binding may cause shadows or distortion along interior margin/ La reliure serrée peut causer de l'ombre ou de la distortion le long de la marge intérieure | <input type="checkbox"/> Only edition available/ Seule édition disponible |
| <input type="checkbox"/> Blank leaves added during restoration 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. | <input type="checkbox"/> 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. |
| <input type="checkbox"/> Additional comments:/ Commentaires supplémentaires: | |

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

| | | | | | | | | | | | |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 10X | 12X | 14X | 16X | 18X | 20X | 22X | 24X | 26X | 28X | 30X | 32X |
| | | | | | ✓ | | | | | | |

The copy filmed here has been reproduced thanks to the generosity of:

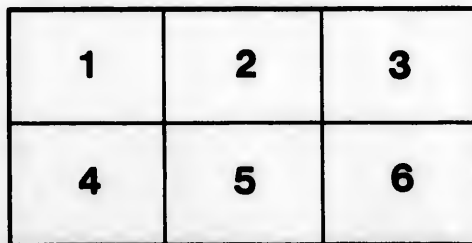
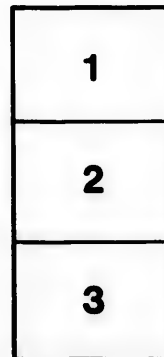
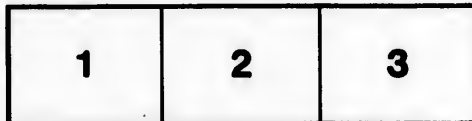
Seminary of Quebec
Library

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

Original copies in printed paper covers are filmed beginning with the front cover and ending on the last page with a printed or illustrated impression, or the back cover when appropriate. All other original copies are filmed beginning on the first page with a printed or illustrated impression, and ending on the last page with a printed or illustrated impression.

The last recorded frame on each microfiche shall contain the symbol \rightarrow (meaning "CONTINUED"), or the symbol ∇ (meaning "END"), whichever applies.

Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



L'exemplaire filmé fut reproduit grâce à la générosité de:

Séminaire de Québec
Bibliothèque

Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Les exemplaires originaux dont la couverture en papier est imprimée sont filmés en commençant par le premier plat et en terminant soit par la dernière page qui comporte une empreinte d'impression ou d'illustration, soit par le second plat, selon le cas. Tous les autres exemplaires originaux sont filmés en commençant par la première page qui comporte une empreinte d'impression ou d'illustration et en terminant par la dernière page qui comporte une telle empreinte.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole \rightarrow signifie "A SUIVRE", le symbole ∇ signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit en un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.

ails
du
odifier
une
mage

errata
to

pelure,
on à

32X

Bibliothèque
Le Séminaire de Québec,
3, rue de l'Université,
Québec 4, QUE.

Jan. 20, 1968 -

137

THE
REGISTRY LAWS



AFFECTING

LANDS IN UPPER CANADA;

WITH

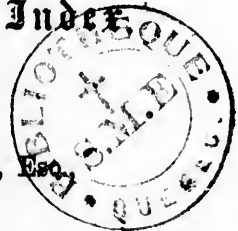
AN ANALYTICAL INDEX,

Robt Sharp Catcher
SHOWING THEIR USE
29th March 1858

COMBINATION;

WITH

Judicial Dicta and Index



By WILLIAM SLADDEN, Esq.,
Parliamentary Agent.

“CAVEAT EMPTOR.”

TORONTO:
HENRY ROWSELL, KING-STREET.
1857.

Entered according to the Act of the Provincial Legislature, in the year of
Our Lord, One Thousand Eight Hundred and Fifty-Seven, by WILLIAM
SLADDEN, in the office of the Registrar of the Province of Canada.

P R E F A C E .

THE words of the late Sir Robert Peel, "Register, register, register," contained a truthful aphorism applicable to the field of political contention in England. The battle of the election is there fought in the Registration Courts; and hence the advice of that eminent man to his adherents and the supporters of his views, to register their titles to vote, in the court of the revising barrister.

A Judge of the Court of Queen's Bench in Upper Canada, who is, like the great statesman, numbered with the dead—Mr. Justice Sherwood—in speaking of the requirements of the Registry Laws in this Province applicable to lands, referred to the common law maxim "*caveat emptor*," which he translated thus, "*Let the purchaser be on his guard and register his deed.*" The means by which to secure the peaceable and sure possession of land in Canada, was indicated by the deceased Judge to be in the Registry Offices of the Province; and the advice, "Register, register, register," cannot be too strongly inculcated upon those who, as principals or agents, are engaged in the transfer of either legal or equitable interests in real estate: he who follows it may sleep more soundly than the man who pillows his head upon his musty, unregistered title-deeds; and he who ventures to treat it lightly and with indifference may find to his cost, that his omission to "register" has resulted in the loss of his broad acres.

In Canada, Registration is the rule; in England it is the exception. The Counties of York and Middlesex are Register Counties; but throughout the length and breadth of the residue of her soil, the tables of lawyers groan beneath the weight of huge abstracts of title, and their strong boxes are crammed with parchments redolent of the mustiness of time, but representing the unregistered titles, the wealth, and the tenures of her landed proprietors.

The Statutes now constituting the Registry Laws of Upper Canada, and directly or indirectly, generally or specially affecting land and interests in land in that part of the Province, included in the "Analytical Index," forming a part of the accompanying work, are indicated on the page immediately following the "Judicial Dicta"; and it seemed to the writer a task alike interesting and important, to place their contents before the public in juxtaposition, and by an Index to combine the whole of them, and to present in such combination—under the distinctive heads to which they are applicable—a view of the enactments to which those heads are referable, with sectional references to the Statutes.

The cases in which the English Courts have been called upon to pronounce judgment in matters connected with the Registry Acts of York and Middlesex are few, taking time into consideration, in comparison with those which have demanded the attention of the Judges in this Province; the Irish cases will, however, appear by the Reports to be more numerous. Most of the English and the Irish cases have from time to time been cited in arguments at the Bar and in judgments from the Bench in Upper Canada, and references to them will be found in the Reports of the cases adjudicated on. As, however, the object of this work is to exhibit the Registry Laws of Canada as applicable to the lands of Canada, the text of the following pages will be found

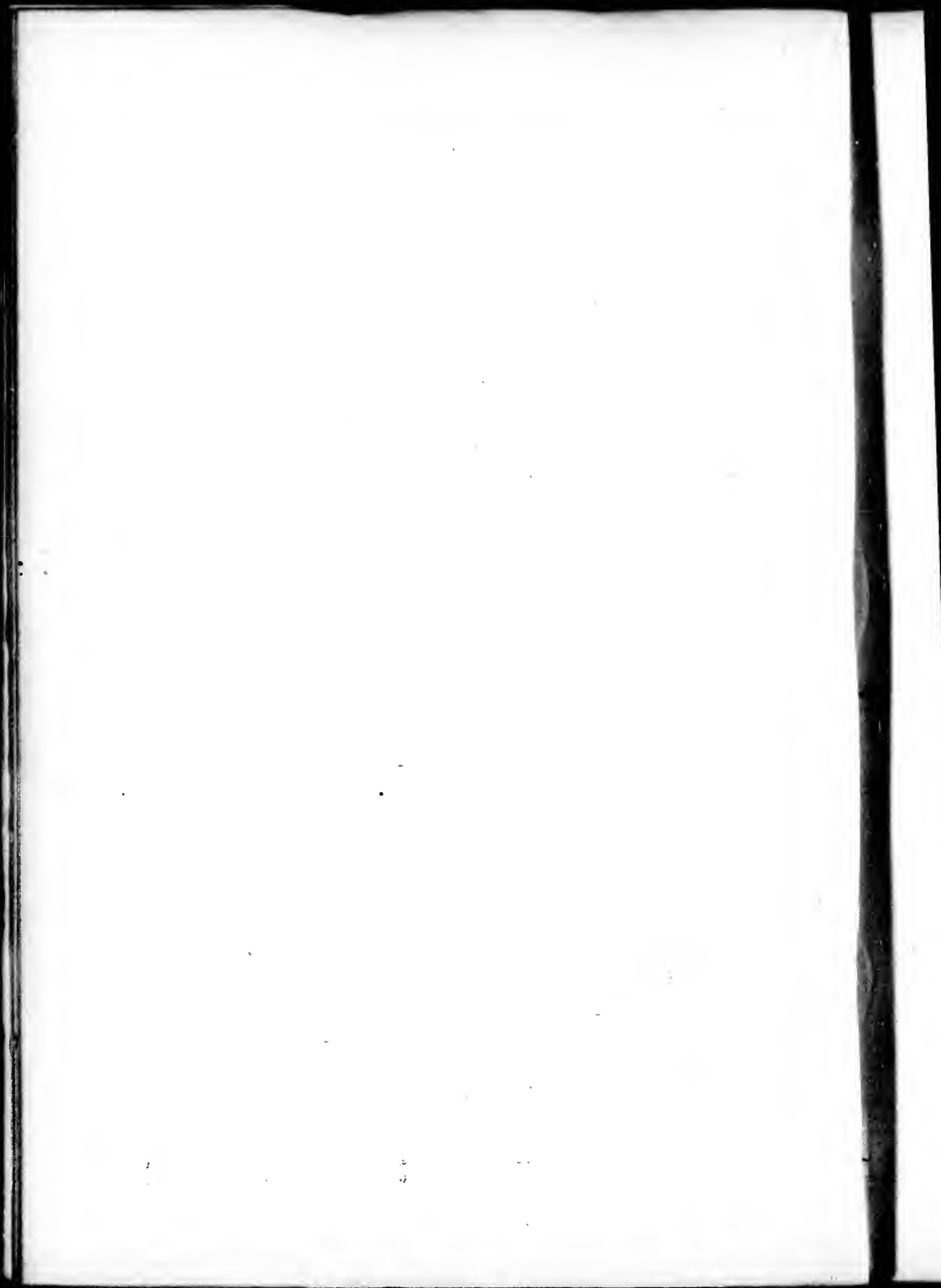
mainly clothed in judicial language taken from the dicta of the learned Judges of the Province. They who desire to trace back the principles on which the Registration of Titles is founded, and to compare the Law in Canada with the English and Irish Acts, will have no difficulty in following out their inquiries, by a study of the carefully considered and elaborate judgments pronounced in some of the cases referred to in the (Canadian) Queen's Bench, Common Pleas, and Chancery Reports.

The object of the Registry Acts, both in Great Britain and in Canada, appears to have been identical; their enactment proceeded from the like policy, and the same principles will be found at the base of, and to pervade, the Statutes enacted in each. England, with "the dust of time gathered on her walls—for she is not a building of yesterday"—has hitherto been unable to shake off the prejudices against the change involved in a legislative adoption of a general Registry of Titles. Whatever may be the difficulties attendant upon the question, the language of the Barons of old to the King who granted the Charter of our English liberties is to be heard amongst the opponents to the often agitated question of Registration, "*Nolumus leges Angliæ mutari.*" The future history of Canada will not connect its past with any such prejudices: her people are governed by laws into which has been imported the principle of a general Registration of the Titles to her soil; and the settler of the back-woods, and the inhabitant of her cities, can each, and does, secure his right to the peaceable and permanent tenure of his share of that soil, by the aid of, and through the instrumentality of, the Registry Acts.

WILLIAM SLADDEN,

PARLIAMENTARY AGENT.

TORONTO, *September*, 1857.



REGISTRATION OF TITLES.

JUDICIAL DICTA.

The object of the Registry Acts was to afford to persons ^{Object.} proposing to become mortgagees or purchasers, the means of discovering any prior incumbrances if registered, or of protecting them against all unregistered and secret prior incumbrances or conveyances. Where, therefore, a person proposing to become a mortgagee, or purchaser, has actual notice of a prior unregistered incumbrance or conveyance, the principle of the Registry Acts becomes inapplicable; because it is his own folly if he is a loser by advancing any money by way of purchase or loan: and, therefore, if a ^{Notice in Equity.} subsequent purchaser, or mortgagee, has notice, at the time of his purchase or mortgage, of any prior unregistered conveyance or mortgage, he will not be permitted in Equity to avail himself of his title against the prior conveyance or mortgage, any more than he would if the same were registered. (Story's Eq. Jur. § 397; 2 Spence's Eq. Jur. 763; Coote, Mortg. 3rd edit, 381; 4 Cruise, T. 32, c. 28 § 20; Sugd. Concise View, 578-9; 9 Jarm. & Byth., by Sweet, 691.)

Jones, J., in *Doe dem. McLean v. Manahan*, Q. B. R. 1, ^{Object.} p. 504, said: "The object for which a registration of deeds is authorised is for a notice to subsequent purchasers, and as a protection against prior secret conveyances."

Robinson, C. J., in *Doe dem. Major v. Reynolds*, page 318, 2 Q. B. R. (1845), says:

"I consider the effect of the Registry Act to be, that the ^{Effect.} deed which is defeated by its provisions, is not merely to be looked upon as fraudulent and void after the registry of the

Effect of Registry Act. subsequent conveyance, having been good and valid before ; but that it must be taken to have been fraudulent and void from the beginning, as a conveyance intended to be kept secret, to deceive purchasers, and that no estate ever passed by it."

Intention. Again,—“The very intention of the statute is to compel persons to register their deeds, at the peril of having their title defeated by deeds subsequently made.”

Object. Again,—“The Registry Act has for its object the protecting *bonâ fide* purchasers for valuable consideration, under subsequent deeds, against prior unregistered conveyances which the act enables them to treat, on account of their supposed secrecy, as being fraudulent and void. It does, indeed, seem to be an unfortunate perversion of that intention, that the statute should have the effect, so far as the courts of law are concerned, of protecting and aiding persons in the commission of fraud, by enabling them to purchase, in the face of prior conveyances of which they have full knowledge, and to make use of the provisions of the statute in accomplishing their fraud. It is in consequence of the necessity which courts of law have held themselves to be under of disregarding the fact of notice of the unregistered deed.”

Notice at Law.

What is a Registered Title.

The title to land is called a registered title, when the registry contains one or more registered deeds respecting it prior to the deed under which a party seeks to establish his claim.

The registration of a deed, which in law could have no force or effect whatever, could not make the title, which it did not affect, a registered title. (Per *McLean*, J., in *Moffatt v. Grover*, 4 U. C. C. P. Rep. 407.)

In another case of *Doe ex dem. Atkins v. Atkinson*, reported in U. C. Q. B. Rep., O. S., 4, p. 141; it was decided that the Registry Act does not apply where there has been no previous registered deed; and since stat. 4, Will. IV., ch. 1, sec. 47, a deed of bargain and sale does not require registry nor enrolment to make it a valid conveyance.

Robinson, C. J., said: "Most clearly no priority of title ^{Registered Title.} is gained by registry of Hyles' deed, because the title to this land was not a registered title before, and on that account the second section of the Registry Act does not apply to it. And as to the objection that registry was necessary to supply ^{Registry in lieu of enrolment.} the place of enrolment, in order to make the bargain and sale from Rykman to Street a valid conveyance, that objection is precluded by the 47th section of the statute 4 Will. IV., ch. 1." *Sherwood, J.*, and *Macaulay, J.*, concurred.

Where a nominee of the crown, before the issuing of letters patent, made a conveyance in fee to one person, and afterwards obtained a patent granting the estate to himself, and then conveyed to another, who also conveyed. *It was held* that the patentee of the crown and his assigns as privies in estate, ^{Estoppel.} were estopped by the first conveyance; and that the patentee fed the estoppel, and made it a vested interest and estate. It was also held that the Register Act did not apply unless when a memorial of a conveyance of the same land has been previously registered. ^{Registered Title, &c.} *Doc dem. Hennesy v. Myers* (Upper Canada Jurist, O. S., 424). The facts were shortly these: one Abbott was the original nominee of the crown. On 4th of May, 1804, he sold the lands to Hennesy, and Sarah his wife, by an instrument in writing. Afterwards, on the 24th of March, 1809, the patent from the crown issued, granting the lands to Abbott in fee; and on the 6th of June, 1809, Abbott by deed made another conveyance of the land to Elizabeth, wife of Daniel McKenzie, in fee, thereby acknowledging the receipt of £100 as consideration of the sale. The deed to Elizabeth McKenzie was registered on the 12th June, 1809, and the deed to Hennesy, and wife was registered on 14th August, 1811. The lessor of the plaintiff Hennesy, went into possession on 4th May, 1804, when he got the first deed from Abbott, and continued in possession more than 20 years, and then McKenzie and wife brought ejectment to recover possession under their deed. This action was not defended, through a mistake. McKenzie and wife signed judgment against the casual ejector, and by

Registered
Title.

writ of possession turned the lessor of the plaintiff out of possession, and then conveyed the lands to the defendant Myers, by bargain and sale, which was also registered. The defendant thereupon took possession, and Hennesy (who was tenant for life under Abbott's deed of 4th of May, 1804) brought the action to regain possession.

The jury gave a verdict for the lessor of the plaintiff, and the following observations occur in the judgments which were given by the learned judges after the arguments on the rule why the verdict should not be set aside, &c.:

Registered
Title.

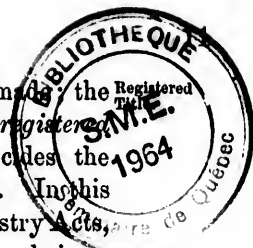
Robinson, C. J., after stating the case said: "A new trial is moved for, on the ground that Abbott, having no title when he conveyed to Hennesy and wife, the letters patent not having issued till afterwards, his deed to Hennesy and wife was void; and it was further insisted on that the deed to Elizabeth McKenzie having been registered in 1809, and the deed to Hennesy and wife not registered till 1811, the latter must be considered fraudulent and void under the provisions of the Register Act.

"With respect to this point, it is not one on which an argument can be maintained. It has been several times discussed in this court, in other cases. The words of the Registry Act are too plain to admit of doubt.

"The effect of that statute, where it applies, is to render a prior deed, however fairly made, absolutely void as against a subsequent deed first registered; a provision without which due effect could not be given to the act, but which, nevertheless, operates very hardly in many cases, by producing the loss of an estate honourably acquired.

"We cannot extend the application of so penal a provision beyond the letter, and certainly not *against* the letter. Now it is as plain as day, that the second clause of our Registry Act (the learned judge was referring to the 35 Geo. III., ch. 5, since repealed), is so framed as to prevent the first registry of a deed respecting promises which have never before been made the subject of an entry in the county register, having the effect of rendering invalid a prior *bond*

JUDICIAL DICTA.



vide deed. A commencement must have been first made to the title to any particular estate must have first become a 'registered title,' and then the priority of registration decides the preference, as between deeds subsequently given. In this respect our statute closely follows the English Registry Acts, and the reason for placing things on that footing is obvious. Inasmuch, therefore, as no memorial had been registered affecting this land, at the time that the deed to Hennesy was given, his deed is not liable to be postponed to McKenzie's by reason of the prior registry of the latter."

Sherwood, J., in the course of his judgment referred to the question of registration—"Register offices have also been established in this province by the 35 Geo. III., ch. 5. The registry of deeds is not compulsory by this act; the parties may register them or not at their election. In the present case the deed to Elizabeth McKenzie was registered before the deed to the lessor of the plaintiff, although the latter deed was executed several years before the former. Still the deed to Elizabeth McKenzie acquired no priority by being registered first, because Abbott did not hold the land by a registered title, but by grant immediately from the crown."

The discriminatory powers of the Registry law are not brought into operation till a memorial has been registered; for the law will not presume the purchaser had notice before the completion of the statutory enrolment, which is entered in a public office to which every one has free access. A perusal of the registered memorial will shew the names of vendor and vendee, and of the witnesses, together with the nature and extent of the estate created by the deed to which the registry relates. When a memorial has been entered and registered in a public office in this manner, no one who afterwards buys the land can be sure of a legal title, unless he causes a memorial of it to be registered in the same way; because the act expressly requires him to do so, under the penalty of a loss of the property in case the vendor should give a conveyance for a valuable consideration to a second purchaser, who causes a memorial of it to be registered before the memorial of the other deed is registered.

35 Geo. III.,
ch. 5.

Registration
not compul-
sory under.

Registered
Title.

Memorial.

Caveat
emptor.

“This part of the Registry Act appears at first view to be a harsh enactment; but when its beneficial effects are developed, that unfavourable impression is entirely effaced. The provisions of the statute strike at the root of those numerous evils which secret, fraudulent, and successive conveyances of the same lands by the same vendor have always produced in the community, and prevents the possibility of their occurrence. All this is done by adopting the common law maxim of ‘*caveat emptor*,’ which in this instance may be translated, ‘*let the purchaser be on his guard and register his deed.*’

“I have already said, however, that, in my opinion, the Register Act is not applicable to the case,” &c., &c.

Registry of
Will.

In the case of *Scott et al. v. McLeod*, 14 Q. B. R., 574, the will was made on the 13th February, 1826; the devisee died in 1828, and his son and heir-at-law, Francis Swazze, conveyed the land in February, 1833, to one Darby, through whom the defendant claimed, which deed was registered in 1834. *C. J. Robinson*, in delivering judgment, said: “The non-registry of the will can make no difference under the circumstances. The conveyance by the heir-at-law being registered, might prevail against the devisee on that account, if, before the devise the title to the land had been a registered title, but it was not, the devisor holding the title to himself from the Crown.”

Registered
Title.

In the case of *Soden v Stevens*, Grants Ch. & App. Rep., vol. 1, p. 346, *Esten*, V.C., said:

Notice
Registered
Title.

“It is certain that notice, which is sufficient in other cases, will not prevail over a registered title. (19 Ves. 439; 3 Sug. V. & P., 458.)

Constructive
notice.

“It may be doubted whether constructive notice of any kind is sufficient for this purpose.”

Certificate of
Registration
indorsed on
Deed.

Robinson, C. J., in *Doe dem. McLean v. Manahan*, 1 Q. B. Rep. U. C., p. 499, said: “The legislature, by passing the Registry Act, relieved parties (as to titles once registered) from the necessity of inquiring about transfers any where but in the registrars’ books; and it would be laying a snare

for people if, after holding out, which the statute does, the assurance that a purchaser *need trouble himself about no transfer or incumbrance*, which he does not find entered there, the act should be so construed as to subject his title to be defeated by an untrue certificate, indorsed upon a separate paper, in the custody of an individual, *and which he had no means of knowing.*"

Certificate of registration.

Untrue certificate.

The certificate indorsed on the deed; though it is evidence of the fact of registry, is not the only evidence of it, nor the best. There can be no stronger proof of the title to a particular lot of land being a registered title, than the production of the book of registry, in which a memorial of a deed affecting it is in fact recorded, and in which intending purchasers are to make their searches. (Doe dem Brennan v. O'Neill, 4 Q. B. R. 9.)

Evidence of Registered Title.

Book of Registry.

The registration of a deed from a person having no title, or a fraudulent title, will not give a priority over a deed from a person having a good title.

Fraudulent Title no priority by Registry.

In this case *Macaulay, J.*, said:

"As to the priority of registration, notwithstanding the case of Doe dem. Brennan v. O'Neill, 4 U. C. Q. B. Rep. 82, I do not think the registering a memorial of a forged deed, or a deed from a person falsely personating the owner, or having no valid or legal title, such a registration as can give efficacy to the deed, the registration of which preceded the registration of the defendant's deed to the lessor of the plaintiff in preference to the defendant Breakenridge's subsequent deed, &c., to the McNutts. It cannot be fraudulent and void as to deeds not from the same party, but from strangers who had no title; and even admitting them to have acquired a seisin in fee tortiously, as by abatement or disseisin, still the chains of title are quite distinct, and the deed held under the heir of the grantee of the Crown did not require registration.

Forged deed.

Forged deed.

"The Registry Act never could have intended to set off forged deeds of conveyance by persons having no title, in preference to rightful conveyances of the true owners."

Memorial thirty years old.

A memorial more than thirty years old of a lost deed is

Evidence memorial thirty years old. good evidence on its bare production, without calling or accounting for the subscribing witnesses. (*Doe dem Maclean v. Turnbull*, 129.)

Memorial thirty years old proves itself. In *Doe dem. England v. Crysedale*, (Mich. Term, 1841), a memorial was received in evidence without further proof, and being over thirty years old was held to be sufficient to establish the deed, on proof of the deed being lost; that is, *it was held* sufficient to prove what the memorial expressed—that on a certain day the grantor named in it did execute a deed to the grantee conveying to him the premises mentioned.

Memorial of Deed, Middlesex Registry Act. Where A., who was entitled to a leasehold estate in Middlesex, mortgaged that estate to B., and died before the mortgage deed was registered, leaving C. his executor; and C. executed the mortgage deed, and his execution was attested by two witnesses, neither of whom had attested the execution of the deed by any of the parties to it; and a memorial of this deed, attested by those two witnesses was placed on the register; *it was held* that the deed was not properly registered. (*Essex v. Baugh*, 11 Law Journal, Chancery Rep. p. 374.)

Memorial. When the memorial does not comply with the directions of the act, the person claiming under the deed defectively registered cannot insist on the benefit of the statute against a subsequent purchaser without notice whose conveyance is duly registered. (Sugd. V. & P.)

All the substantial requisites of the memorial must of course come within the terms of this proposition. (*Tack v. Armstrong*, 1 Huds. & Bro. 727.)

Lithographed Memorial. A lithographed memorial is a memorial put into writing within the stat., 7 Anne, ch. 20, sec. 5, and ought to be registered by the registrars of deeds, &c., for the county of Middlesex.

Memorial of Indorsed Deed. In the case of *The Queen v. The Registrars of Middlesex*, 19 Law Journal, Rep. Q. B., Part 2, p. 537, an application had been made to register a deed of assignment which was indorsed on an indenture of lease. The assignment described the premises as "*the messuage, &c., comprised in and*

demised by the within written lease." The lease described the premises as "*all that messuage in King Street in the parish of Hammersmith.*" The registrars refused to receive and register a memorial stating the deed to be a deed of assignment assigning a messuage situate in King Street, in the parish of Hammersmith, by the description of the messuage, &c., comprised in and demised by the within written indenture. And *it was held* that the registrars had acted rightly, as the memorial was not in compliance with the statute. Memorial of Indorsed Deed.

In the course of his judgment *Patterson, J.*, said :

"We do not intend by our decision to require that any particular form of memorial should be adopted, but the form offered by the registrar appears to us to comply with and not to exceed the requirements of the statute. In the case of a second deed indorsed on a former deed, and importing by reference the description of the premises from the former deed, it appears to us necessary that the particulars of the description according to the truth should be given, and that this would not be done unless the dates and parties to both deeds are specified, together with the description from both deeds. In such a case the deed to be registered expresses the lands by reference to another deed, and the memorial should state that the imported description is taken from the source referred to." Indorsed Deed.

Where the defendant's attorney had agreed in an action of ejectment to admit deeds by the production of memorials, without accounting for the deeds, and to admit the execution of such deeds as the plaintiff might produce, without proof by a subscribing witness, *it was held* that it could not be objected at the trial that a memorial signed by the grantee was no evidence of the deed. (*Rutledge v. McLean*, 12 U. C. R. 205). Memorial. Grantee.

In this case the plaintiff proved a deed to himself from D., dated 3rd July, 1851, registered on the 7th of the same month. The defendant put in an instrument under seal, dated 3rd June, 1847, between one M. and D., reciting that Agreement. Unregistered Recital. Estoppel.

differences had arisen between them, and that M. had brought ejectment to recover possession of this lot, "belonging to the said M.;" and, in consideration of M. withdrawing the record, D. agreed that the lot should be valued by certain parties, and covenanted to pay to M., or secure by mortgage on the land, whatever that value might be. No valuation was made. The Court *held*, that this agreement being unregistered, the recital in it could not affect the plaintiff's title.

Unregis-
tered
Recital.

Estoppel.

In the course of his judgment, *Draper, J.*, said: "As to the estoppel, if the objection raised were tenable, it would destroy the benefit and defeat the object of the Registry laws; for the result would be, that, although a deed duly executed and conveying an estate in fee simple, being unregistered, would be fraudulent and void against a registered deed subsequently executed, yet a bond to refer disputes to arbitration, which happened to recite the title, being earliest, would prevail by way of estoppel against the subsequently executed, but duly registered conveyance. This would be an estoppel against the express terms, as well as against the policy of an act of the legislature. A more complete *reductio ad absurdum* could scarcely be stated."

Registration
of Will.

If a testator makes a will simply devising to his two sons named, all the lands which he owned in the township of Huntley, without specifying what they were, there is no doubt that such a devise would pass the title, though the registration of such a will would afford no information on the face of it as to what lands were affected by it. (Per C. J. *Robinson*, in *Doe dem. Lowry v. Grant*, 7 Q. B. R. 129.)

Under the statute 9 Vic., ch. 34, an objection that a will was not registered within six months after death of testatrix, nor previous to a conveyance by the heir-at-law, is not valid when the person taking such conveyance is not a *bonâ fide* purchaser for valuable consideration, nor where, when the will was made, the title was not a registered title.

Judgment to
bind land.

Lands are bound upon the registry of the judgment under the 13th section of the 9 Vic., ch. 34,—the mistaken refer-

ence in that clause to the docketing of judgments in England being considered by the Court a mere false illustration of what was plainly provided for before (*Doe dem. Dougall v. Fanning*, 8 Q. B. R., p. 166).

A party who claims under a subsequent conveyance, and seeks to displace the first by reason of the prior registry of his deed, must, before he can recover in ejectment, give some proof that he stands in the position of a purchaser or mortgagee for valuable consideration. The production of the subsequent deed, stating on the face of it a valuable consideration—affording no evidence of consideration as against a stranger—will not do (*Doe dem. Cronk and another v. Smith*).

The learned Chief Justice, in delivering the judgment of the court in the last mentioned case, said: "The 6th clause of our Registry Act, 9 Vic., ch. 36, provides, like the former act, that the prior deed shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration who shall first register his deed. It does not provide that any person who takes by a subsequent deed shall gain the priority by registry, but only a purchaser or mortgagee for valuable consideration. In *Dickson v. Evans* (6 T. R. 60), Mr. Justice Ashurst says: 'It is a general rule of evidence that in every case the *onus probandi* lies on the person who wishes to support his case by a particular fact, and of which he is supposed to be cognizant.' In the cases referred to as having been decided in this court, as reported in 1 U. C. Rep., 502; 2 U. C. Rep., 319; 4 U. C. Rep., 14, 27, and 5 U. C. Rep., 346, the point has been assumed rather than determined; and we think the law does require that the party claiming under the subsequent conveyance, and seeking to displace the first by reason of the prior registry of the deed, must give some proof that he stands in the position of a purchaser or mortgagee for valuable consideration; for that is necessary to make out his case. The only question is, whether he can be held to have given any evidence of that fact, such as calls on the other party to impeach

Some proof
of considera-
tion.

his deed, when he merely produces and proves his deed, which states on the face of it a consideration paid to him. We think not, because that deed can estop no one but the parties to it; it forms no evidence of consideration, as against any stranger to the deed. The deed given to Smith in this case furnishes no evidence as against the lessor of the plaintiff, that the mortgage was given for an actual debt. He cannot be called on to prove the negative, and especially in a matter of which he cannot be assumed to have any knowledge. If he were driven to impeach as voluntary a deed, which till impeached must *prima facie* be held to be good, the case would be different, but here the lessor of the plaintiff holds the elder title, and proving that, establishes his right, till something is shown which is entitled to prevail against it. The defendant advances a deed made by Corfield, but not made till after Corfield had divested himself of his estate by making a prior deed to the lessor of the plaintiff. Nevertheless he claims a right to be preferred; but he can only prevail against the elder deed when he alleges no fraud in the transaction, by showing that he comes under the protection of the Registry Act, by reason of the non-registry of the plaintiff's deed, and he must show all that is necessary under the terms of the act to place him on that footing. He must prove himself by some legal evidence at least to be a purchaser or mortgagee for valuable consideration."

As an illustration of the paucity of cases determined in England upon points arising under the Registry Acts, the learned Chief Justice quoted an observation of *Abbot, C. J.*, in *Doe dem. Robins v. Alsop* 5 B. & Al. 145, made in the year 1821 upon the Registry Act of Anne, cap. 20 :

"A court of law is now called upon for the first time to put a construction on the words of this statute."

The case last mentioned was referred to in the judgment of the court in *Doe dem. Prince et al. v. Girty*, 9 U. C. R. 41, the material facts of which were the following :

A. in 1842 conveyed to B.'s son, then a minor. This deed was never registered. B. swore that *he* bought the land

from A., but being in difficulty, had the deed made to his son ; that he had always continued in possession ; but on this point the evidence was contradictory. A.'s heir in 1849 made a release to B., and B. conveyed to the lessors of the plaintiff—both these deeds were registered. *Held*, 1st. That the mere fact of B. being in possession when he conveyed to the lessors of the plaintiff could not be relied on as *prima facie* evidence of seisin after A. had been shown to have been in possession previously, and to have conveyed to B.'s son. *Held, also*, that there being no evidence that the deed from A.'s heir to B. was for valuable consideration, B. could not displace his son by reason of the prior registry of that deed ; and for the same reason, the lessors of the plaintiff could not claim to be preferred. *But held, also*, that the deed from A.'s heir to B. being a mere release, and (if B.'s son were in possession) there being no estate on which it could take effect, was inoperative. *Held, also*, that the production of the registrar's book, in which a memorial is recorded, is good evidence of the title being a registered title.

Possession.

Evidence of Registered Title.

It would appear, also, from the last case, that the registrar producing an examined copy taken from his book, without bringing into court either his book or the memorial, would be good evidence.

Examined Copy Registrar's Book Evidence.

The case of *Doe R. & J. W. Dempsey v. Boulton*, determined that the meaning of the 13th section of 9 Vic., cap. 34, is, that judgments shall bind lands from the date of their registry, not with reference only to remedy by *elegit*, but for the purpose of sale under a *fi. fa.*

Registration of Judgments to bind Lands.

The court considered that the legislature meant nothing more or less than to say, that as in England judgments did not affect lands from the time of being entered, but from the time of being docketed (since done away with) which first gave to third parties the means of searching for, and ascertaining incumbrances, so in this country, where they are requiring registry in order to give means of knowledge to third parties, the judgment should not affect the land till it had been registered ; and that the legislature could not be

supposed to have framed their provision with a view to process of execution by *elegit*, which they knew was never resorted to in this province, being considered to be superseded by the 5 Geo. II., ch. 7, which gives the same process of execution against lands as against goods.

Term of
years in
Real Estate.

In the case of *Frazer v. Lazier*, the court held that the 12th Victoria, ch. 74, relating to mortgages, &c., of chattels did not apply to terms of years in real estate.

Robinson, C. J., in delivering the judgment of the court said: "We are of opinion that the statute 12 Vic., cap. 74, applies to mortgages of goods and chattels in the restricted sense of moveable goods, and not to mortgages of terms of years in real estate. The use of the term 'delivery' and the words 'possession of the things mortgaged,' seem to us to point to goods wholly personal in their nature, such things as could be delivered over from hand to hand."

Term of four
teen years.

In the case of *Doe dem. Kingston Building Society v. Rainsford, Burns, J.*, referred to the facts in the following observations: "A legal term is created by deed for fourteen years, and no more, which required no registry. The parties do register it, however, and then assign part of the premises to another person who goes into possession, claiming the residue of the term in that part of the premises. Subsequently the assignor mortgages the whole premises, including the part assigned, and the mortgagee registers, and under the mortgage deed claims the residue of the term of fourteen years from the first assignee, on the ground that because the assignor had registered his lease, the assignee was bound also to register the assignment. That, we think, is not the law.

Voluntary
Registry.

"The parties cannot, by their voluntary act of registry, in cases to which the act (9 Vic., cap. 34) does not extend, draw to their acts the consequences provided by the legislature for another state of things."

Sheriff's
Deeds.

A sheriff's deed to a purchaser is such a conveyance as will take precedence, by reason of being registered, over a prior unregistered deed; otherwise, there would be no induce-

ment to register sheriffs' deeds, and no claim of title traced in the register could be depended upon.

In the case of *Burnham v. Daly*, 2 Q. B. R. page 211, ^{Sales by Sheriff and Execution Debtor of the same land.} *Draper, J.*, in delivering the judgment of the court, stated the facts and laid down the law applicable to those facts in the following words: "The case may be thus stated: Owen Daly was seised in fee; in January, 1843, the land of which he was seised was sold in execution, to satisfy a judgment against himself, the defendant James Daly, and Andrew Daly. On the 28th May, 1853, the sheriff executed a conveyance in pursuance of that sale. On the 19th of February, 1852, Owen Daly, in order to get released from custody at the suit of a creditor, and having answered interrogatories by which he disclosed the truth as regards this land, assigned all the interest and estate he had therein to that creditor in fee, who on the 29th September, 1852, conveyed to the plaintiff. Both these deeds were registered on the 29th September, 1852, while the deed from the sheriff was unregistered at the time of the trial. The plaintiff contends that under the Registry Act, 13 & 14 Vic., ch. 63, sec. 3, the sheriff's deed ^{13 & 14 Vic. ch. 63, sec. 3.} is defeated. That section enacts in effect, that after the issue of letters patent granting any lot in Upper Canada, every deed, devise, or other conveyance, which shall be executed at any time after the 1st of January, 1851, whereby any land in Upper Canada may be in anywise affected in law or equity, "shall be adjudged fraudulent and void, not only against *any subsequent purchaser* or mortgagee for valuable consideration, but also against a subsequent judgment creditor who shall have registered a certificate of his judgment, unless such memorial be registered, as by the first recited act is specified, before the registering of the memorial of the deed, devise, or conveyance, or the certificate of the judgment under which such subsequent purchaser, mortgagee, or judgment creditor, respectively shall claim." The case certainly does not come within the letter of this enactment, for instead of the sheriff's deed, which it is sought to avoid, as against a *subsequent* conveyance which has been

Sheriff's
Deed.

first registered—being first in point of execution—it is in reality the subsequent conveyance ; and if Owen Daly's deed of February, 1852, can be operative at all to pass the estate, it must be so, independently of any question arising on a strict construction of this section. The real question is, whether a deed by a judgment debtor of his lands which have been taken and sold in execution, executed and registered after such sale, but before the execution of the sheriff's deed in fulfilment thereof can avoid the sale in execution and the sheriff's deed.

Sale by
Execution
Debtor.

“The moment this question is thus stated it affords its own answer, for although, notwithstanding the seizure and sale, the lands would remain in the execution debtor until assignment by the deed of the sheriff, yet the cases of *Doe Tiffany v. Miller* (6 U. C. R. 426, 10 U. C. R. 65), and *Doe Springer v. Miller* (10 U. C. R. 57), establish that the sheriff's deed will have relation back to the time of sale, notwithstanding the interval of many years between the two ; and though the sheriff who commenced the execution had gone out of office not only before the execution of the deed but before the sale itself. The sheriff, in making the conveyance, as is said in one of those cases, is to be regarded as executing a power ; and where no adverse rights have been acquired by third parties, either by lapse of time or by statute, that power may be executed at any distance of time. In this case the attempt is to make a conveyance by the debtor operate as a revocation of the power. If it could do so at all, what limit is there as to the time when it should have that effect, why not as well within a week after the sale as within a month, or a year ? I can see no principle on which to hold the one which would not equally apply to the other. Admitting that the lands were not bound by the judgment in 1841—and indeed it has been so decided—yet they are bound by the execution ; and it would be a strange doctrine to hold that they were only so bound *until* the sale, and were at the disposal of the debtor during any interval between the sale and the conveyance. I do not think this is the law ;

Sheriff re-
garded as
executing
power.

but on the contrary, if there be any difference, I should think the sale of lands duly seized under execution would be rather entitled to prevent the debtor executing any disposing power over them. In our opinion the rule should be made absolute to enter the verdict for the defendant."

Growing timber is so far real estate that a conveyance of it by the owner of the fee is within the Registry Acts (Ferguson v. Hill et al. 11 Q. B. R. 530). Conveyance of growing Timber

The circumstances of this case were such, that but for the absence of doubt upon the mind of the learned judge, as to the law of the case, he would have been anxious, and, even in the face of that law, was desirous to find some ground on which the defendant's case might be supported, as there was no merit in the plaintiff's action.

The facts, apart from those of an unmeritorious nature, were these: one Griffin, on 7th September, 1850, by deed under seal, sold and conveyed all the pine trees growing on fifty acres of land to one Sackett. This deed was never registered. On the 20th May, 1852, Griffin sold the 50 acres to the plaintiff, and conveyed the same to him by an ordinary deed of bargain and sale, making no reservation of the pine trees, and taking no notice in the deed of their having been sold to Sackett. The title of the land was a registered title before either of these transactions, and the deed of conveyance of the land from Griffin to the plaintiff was registered. Ferguson, the plaintiff, insisted on his right to keep the pine timber, and to set both Griffin and Sackett at defiance, in consequence of his having registered his conveyance of the land which contained no exception of the timber, while the deed to Sackett of the standing timber remained unregistered; and persisting in this claim, brought his action to recover the value of the pine timber taken.

Under the pleadings the whole case turned on the second plea, which devised the plaintiff's property in the pine timber; and (said the learned Chief Justice *Robinson*, whose judgment as reported sets out the facts, and the authorities cited fully) "that question of property depended upon the point,

Growing
Timber.

whether Sackett by omitting to register his deed had lost the benefit of his purchase, by reason of the prior registry of the subsequent conveyance of the land, without any exception of the timber to the plaintiff.

Real Estate.

“The only question was, to whom these trees belonged as they stood, and if they must be regarded as real estate, and coming within the Registry Act, as being included in the terms ‘*lands, tenements, or hereditaments*,’ then the effect of the registry of the plaintiff’s conveyance, would be to make the former unregistered conveyance fraudulent and void, so that nothing could pass under it.”

Requires
Registration.

The learned judge said—“I felt myself constrained at the close of the case, to tell the jury that in law under the operation of the Registry Act, the plaintiff was entitled to their verdict.”

Growing
Timber.

The case of *Ellis v. Grub* (3 O. S. 611), was referred to in the course of the judgment and the decision supported.

Mere notice of the execution of a previous deed for the sale of growing timber will not defeat the operation of a subsequent conveyance of the land, if the latter be registered first.

Growing timber is so far real estate that, to be severed from the inheritance by deed or devise, the conveyance or will must be duly enregistered to pass the interest intended to be conveyed. (*Ellis v. Grubb*, 3 U. C. Q. B. Rep. O. S. 611).

The facts were as follows: one Lewen, the owner of the land, sold all the pine timber growing on it to the plaintiff, *Ellis*, by deed executed on the 27th October, 1832, which was not enregistered in the County Registry until 28th August, 1833. In the mean time Lewen (on 19th February, 1833) sold the land to Thorne, without any exception of the timber, and containing the usual words expressly granting the woods, &c. This deed was registered in the County Registry on the 13th April, 1833. By deed dated 7th Aug., 1833, Thorne conveyed the land to Grubb, who registered his deed on the 27th August, 1833. Grubb, the pur-

chaser of the land, cut down a quantity of the growing pine ^{Growing Trees.} timber, and Ellis sought to recover damages against him, claiming the timber as his under his purchase by the deed of 27th October, 1832.

Robinson, C. J. said :

“With respect to notice, the question of fact was not properly whether Grubb had notice, because his deed was not registered until the 29th August, the day after the day of the sale of the timber was registered, and could not, there-^{Notice.}fore, have prevailed to defeat it. It is the prior registry of the conveyance from Lewen to Thorne which gives ground for the objection; and if notice were material, the enquiry would be whether Thorne, when he took the conveyance, had notice of the prior sale of the trees to Ellis. As to the fact of his having notice, there can be no room for doubt from the evidence; but we have already stated our opinion that the fact of ^{Court of law} notice of a prior unregistered deed, cannot in a court of law be allowed to prevent the application of the Registry Act. That point is firmly settled in England in reference to Registry Acts, which are substantially the same as ours, and it has been already expressly decided in this court. The ^{Growing Trees.} only question therefore to be considered is the principal one, whether a conveyance of growing trees is within the Registry Act. There appears to be no case decided upon this point in England. Perhaps it has never seemed to admit of a doubt that a conveyance of this description does require registry, and therefore the question has not been raised.”

The learned judge then referred to the Registry Act, 35th Geo. III., and to the distinction between growing and severed timber,—the first being in general a part of the realty, the second simply personal estate, and showed a rational object in applying the Registry Act to the first transfer of growing timber—that which separates it from the freehold—though there should be no necessity for registering any subsequent assignment, and concluded his judgment as follows:—

“On the whole, I am of opinion that this conveyance of the growing timber requires registry, to secure it against the

contingency of being defeated by the prior registry of a subsequent conveyance of the land on which the timber was growing; and that the registry of the deed to Thorne does defeat it, and that, therefore, this objection to Ellis' recovering must prevail, though it is certainly against justice, for Thorne knew of the purchase Ellis had made, &c. We all agree that a nonsuit must be entered."

Growing
Timber.

Macaulay, J., delivered judgment in the same case, as follows—"Timber, until severed attaches to land and forms part of the estate; and though, when sold separately, it is in fiction of law converted into a chattel, yet it is not usually so regarded until actually separated. And, notwithstanding it has been said, a sale thereof may be verbal, and needs not a writing within the Statute of Frauds, yet late authorities establish that a transfer of growing trees constitutes a sale of an interest in or concerning lands, tenements or hereditaments within such statute; and it seems to be assumed that a will of timber would be inoperative, unless attested, &c., according to the statute in that behalf. The Register Act requires all deeds or conveyances of *or concerning*, and *whereby*, &c., to be registered. The present is a deed and conveyance of standing timber, and it is difficult to say that it is not *concerning* and *whereby* lands, tenements or hereditaments are affected. The terms, scope and object of the act, are sufficiently comprehensive to include such transfer; and though to be regarded as chattels thenceforward, the trees should be so converted by a conveyance, effectual to alienate a portion of the heritable freehold, which they were till effectually severed, in fact or construction of law."

The references to authorities are given fully at the end of the report of the case.

In the case of *Doe ex dem. Shirley v. Waldron* 2 C. P. U. C. Rep. 189, the following is an epitome of the facts upon which judgment was given:

Patentee.

A. being the patentee of a lot of land, conveyed it in 1838 to B.; B. in 1840 conveyed it to C., without having registered the deed from the patentee to him, which was not registered

until April, 1843; C. not having registered the deed to him ^{Patentee.} until May, 1845, in September, 1847, conveyed to defendant. In May, 1844, B. executed another conveyance of the property he had already conveyed to C., to the lessors of the plaintiff, who registered their deed in February, 1845, thus gaining a priority of registry over C., who did not register his deed until May, 1845.

Macaulay, C. J., concluded his judgment in the following words—"I think, assuming the deeds and their registry to have taken place according to their entry in the Registry Book, the defendant shews either a *prima facie* title in himself, or that no estate is vested in the lessor of the plaintiff, and that consequently there should be a new trial."

A registrar is bound to register or file a certificate of discharge of a portion of the lands contained in a mortgage. ^{Certificate of Discharge of part of lands in mortgage.} (In re. Ridout, Registrar, &c., U. C. C. P. Rep. 477).

McLean, J., in the course of his judgment said: "I do not think it necessary to give an opinion as to the proper mode of proceeding for the purpose of recording. The statute is silent as to such mode in cases like the present, and we cannot issue a mandamus and direct the registrar to pursue any particular course. He must be guided in that respect by his own sense of what his duty requires under the statute. The affidavit shews that he refused to register the certificate on the ground that it was contrary to the statute. In this respect I think he was wrong; and if he persists in refusing I have no doubt that a mandamus may issue to enforce the performance of duty. But I am not prepared to take upon myself the responsibility of directing by any mandamus the mode in which the registry shall be made."

The learned judge then stated his impression as to the course which the registrar was entitled to adopt in all cases of release of mortgages and said: "There is no provision in the statute that an entry or writing on the margin of the words 'discharged as to part,' with a statement as to what part it shall be deemed a 'discharge' when subscribed by the registrar, but there does not appear to be any other mode by ^{Mode of Discharge.}

Part discharge of Mortgage.

which the discharge of a part can be indicated; and when the registrar has done all that he can to give effect to the statute, he will at all events be blameless, should his efforts fail to be effectual, on account of omissions or defects in the statute in reference to his duty in this respect."

Sullivan, J., said: "It appears to me that the intention of the law is plain, and that the registrar cannot legally refuse to enter the certificate at length as required."

In a note to the above case at the foot of the report, it is stated that the two learned judges being of opinion that the registrar was bound to register the discharge, but differing as to the mode in which it was to be done, directed that a mandamus *nisi* should be issued; that after the argument on the return, the opinion of the Chief Justice, who was not present on the argument on this rule, might be obtained.

The registrar saved the necessity for further proceedings, by registering the discharge.

Husband and Wife. Wife's lands.

A mortgage by husband and wife of the wife's lands having been registered without any acknowledgment of the wife of her willingness to part with her estate, as required by the statute, and the sheriff having after such mortgage and registration thereof, sold and conveyed the husband's interest in the lands under a *fi. fa.*, and the deed to the purchaser was registered after the re-execution of the mortgage, and the due acknowledgment by the wife, which mortgage, however, was not registered after such re-execution and acknowledgment. *It was held* that the interest of the husband in the land passed to the purchaser under the sheriff's deed, to the exclusion of the mortgagee.

Will made in Lower Canada. Registration of office copy

Where a will devising lands in Upper Canada, having been made in Lower Canada, (where testatrix lived,) and being duly proved and enrolled among the records of the Court of King's Bench, and copies thereof directed to be made and given to the parties legally entitled thereto, *it was held* that an office copy of such will, duly certified, &c., was equivalent to letters Probate in Upper Canada, and could be registered as such.

As to the effect in evidence of an examined copy of a memorial of a deed registered, see *Doe dem. Loscombe v. Clifford*, 2 C. & K. 448. Evidence examined copy memorial.

Under the Registry Act 9 Vic., ch. 34, the registrar has no right to charge a fee for the entry he makes in the margin of the memorial. Registrar's Fees and Duties.

It is not a certificate 'given,' but a certificate kept. (Per *Robinson, C. J., Brown v. Garrett* and another, 5 Q. B. R. 243).

The statute 9 Vic., ch. 34, requires a distinct registration of the memorial in the proper books of each township in which the lands contained in the deed are situated; but that in recording the memorial in each book, those parcels of land should be omitted which are not within the township for which the book is kept. Lands in several townships.

The registrar is entitled, in such cases, to charge by the same rate for each registration—that is to say, 2s. 6d. for the first hundred words, and 1s. for each hundred words above the first hundred; which computation is to be made upon the words contained in "the recording of every such deed," that is upon the contents of the entry in the registrar's book, and not upon the words contained in the deed or conveyance itself. Fees thereon

This construction was given to the 16th section of the Registry Act by *Robinson, C. J.*, in *Smith et al. v. Ridout*, 5 Q. B. R. 617.

Under the 17th section of the Registry Act, 9 Vic., cap. 34, the registrar of a county is bound to receive proof of deeds by affidavit sworn to before a commissioner of the Queen's Bench, as well where they are executed within the county as without. (In re Registrar of County of York, 3 Q. B. R. 188). Registrar proof of deed for.

The cases are numerous in Canada, where a party holding an unregistered deed, has, upon some subsequent arrangement, cancelled his deed, and allowed the person who had conveyed to him, to make a deed directly to some other party. This is often done to save the expense of two Cancelling unregistered deed.

Irregular
cancellation
of Deed.

registries, though it is irregular; and the parties from ignorance and inattention, make no allowance for the fact of a title having vested under the first deed, which is not divested by the mere destruction of the paper or parchment. (*Doc dem Lonchs v. Fisher*, 2 Q. B. R. 474.)

Any person cancelling the first deed, or assenting to its being cancelled, who should attempt dishonestly to make title under it, and dispossess the person who took the second deed with his concurrence, would, however, not be allowed (at law) to give evidence of the cancelled deed for such a purpose. (*Ib.* p. 474).

Bargain and
Sale.

4 W. IV. c. 1

The 47th and 60th clauses of the statute 4 Will. IV., ch. 1, render quite immaterial the proof of registration of deeds of bargain and sale for the mere purpose of passing the estate, where there can be no person claiming priority of title under a subsequent deed which has been registered. (*Per Robinson*, C. J., *Doc dem. Lonchs v. Fisher*, 2 Q. B. 4, 473).

Registry
Offices,
removal of.

The powers with respect to the removal of Registry Offices, given to the district councils by 9th Vic., ch. 34, sec. 19, are now vested in municipal councils for counties. (*Fraser v. The Municipal Council of Stormont, &c.*, 10 Q. B. R., p. 286).

Priority of
Registered
over Unre-
gistered
Deed of
earlier date.

A term for 399 years in certain lands in Ireland being vested in B. for life, with the residue in his daughter, a settlement was made on the intermarriage of the daughter and W., by which the whole term was conveyed to trustees, on trust to pay the rents and profits to B., the father, for life, then to W., the husband for life, then to the daughter for life, if she survived him, and afterwards to convey the term to the first son. This settlement was *not registered*. On the death of B., the father, W., the husband, demised the whole term for valuable consideration to K., and the indenture *was duly registered*; and K. afterwards assigned for like consideration his lease of the term to I.: *It was held* by the House of Lords, in conformity with the unanimous opinions of the attending common law judges, that the registered indenture should prevail over

the unregistered settlement, and that the title of the assignee of the lease is to be preferred to that of the widow of W., and of the trustees under the settlement; and that this was so whether the assignment from K. to I. was registered or not, for the unregistered assignment would ^{Assignment of Lease.} pass the interest as between the lessee and the assignee, and there was no conflicting claimant under a registered deed. And this construction of the Registry Act, 6 Anne, ch. 2, held good whether the party executing the prior secret conveyance and the subsequent registered deed were the same party or not. (*Warburton v. Loveland, ex dem G. & H. Ivie, 2 Dow & C. 480*).

In ejectment for premises in the County of Middlesex, ^{Deed Registration, Middlesex, England} duly registered under the Registry Act of the county of Middlesex, 7 Anne, ch. 20, will prevail against an assignment prior in point of time, not registered as the statute requires. (*Doe dem Winsor v. Rowley, 5 Law Jour. Rep. (N. S.) C. P. 290*).

Covenants imposed upon and to be performed by the ^{Rack Rent.} tenant are not equivalent to a rack rent, so as to bring the case within the 17th section of the statute, by which it is provided that the Act shall not extend to leases at a rack rent: *Per Curiam*—Rent *redditus* is that which is to be paid out of the profits of the land, and is in its nature and signification very different from the performance of covenants. If they were the same,—if the identity relied on for the defendant did exist, Lord Coke would have employed himself to very little purpose in writing his long chapter upon “Rents.” (1 Inst. s. 213, fol. 142, (A)).

In the course of the argument in the case of *Essex v. Baugh, 11 Law Journal, Chancery Rep. p. 374*, the Vice-Chancellor observed, that “a person who had taken a security, without notice of a prior incumbrance, might after such knowledge register his deed for the purpose of protecting ^{Protection against incumbrance.} himself against it in the same manner as he might get in a term.”

Priority may be gained by means of prior registration, as

Equitable
Incum-
brances.
Prior Regis-
tration
Notice.

between equitable incumbrances, but this priority will be defeated by notice. (*Bethune v. Caulcutt*, Grant's Chancery & App. Rep., vol. 1, p. 81).

In the above case *Esten*, V. C., in the course of his judgment, said—"The other point was raised by the defendant, Weller, who contends that if the mortgages of Delaney and Burns were really registered before his own, but as they had notice of his mortgage at the time they advanced their money, they must be postponed." (Note, that the above parties both held equitable mortgages; the legal estate was held under a first mortgage given to the plaintiff in the suit).

"Upon consulting the English Registry Acts and our own, together with the cases that have been cited on this point, we think he is right in both the positions that he assumes, namely, that as between equitable incumbrances priority may be gained by means of prior registration, but that the effect of such prior registration will be defeated by notice. If the statute, 9th Vict., ch. 34, were designed to prevent tacking, it has only a very partial operation in that respect. It contains no such clause as occurs in the Irish Act, (6 Anne, ch. 2), and which produced that effect in Ireland. Even the Irish Act, however, does not exclude the effect of notice. The result is, that in Ireland a subsequent registered incumbrance cannot be added to a prior one, to the prejudice of mesne registered incumbrances, unless they had notice. Under our own Act, it would appear that tacking is prevented in a less degree than it is in Ireland. If the object of our legislature were to prevent tacking altogether, it would be better to copy the clause in question in the Irish Act, which it is believed is found to operate beneficially in Ireland.

Tacking.
9th Vic.
ch. 34.

Irish Regis-
tration Act,
6 Anne,
ch. 2.

Notice.

Registration
not Notice
in Ireland.

Registration is not deemed to be notice in Ireland; nor is it necessary for any purpose to hold such a doctrine, which may be productive of mischievous consequences. In the present case, however, a consideration of this point seems to us necessary. Weller's mortgage is prior in point of date to those over which he claims priority. He is, therefore, *prima facie* to be preferred, unless they raise some objection to it, which they do not," &c.

The learned judge said, further,—“The master must also ^{Judgments.} inquire when the different judgments were registered, as judgments bind the lands from the time of registration. They do not, however, by means of prior registration, acquire priority over previous unregistered deeds.”

In the case of *Street v. The Commercial Bank*, on an ^{Tacking.} appeal from a decree of his honour the Vice-Chancellor of Upper Canada, *Robinson, C. J.*, in speaking of the doctrine of tacking securities maintained in English Courts of Equity said, that it was so firmly fixed in those courts, that unless in this province we could ground by legislative enactment of our own the right or obligation to discard it, it was as firmly fixed here; and that we are clearly bound by the force of English authority when we can show no dispensation from it. ^{English authority.} The tribunals of the United States, both legal and equitable, have, in the decisions of the English courts, a pattern which they *may* work by, we have in them a pattern which we *must* work by, unless where the legislature has sanctioned a deviation. Besides constitutional principles binding upon us as an English colony, our adoption of English law and the express enactments of our Chancery Act, make it mandatory on our Courts of Equity to give effect to English principles of equity, where our own legislature has made no special provision.

The learned Chief Justice continued,—“As to our ^{Tacking.} Registry Act, (35 Geo. III., ch. 5), we cannot, in my opinion, hold that the English doctrine of tacking securities can be rejected here, upon the ground that registration under that act is in itself notice, and that the appellant, when he took his deed in 1839, might be supposed to have known of the second mortgage given in 1838, because he might have seen a memorial of it registered if he had chosen to search for it. The English decisions on that point are numerous, and the point is settled.—*Bedford v. Backhouse*, 2 Eq. Ca. Ab. 615; *Wrightson v. Hudson*, 2 Eq. Ca. Ab., 609. Lord Redesdale, in *Bushel v. Bushel*, 1 Sch. & Lef., 103, and *Underwood v. Courtown*, give strong reasons why registration ought not to be held notice to all intents. And another reason, I think, ^{Notice.}

Notice. might have been added scarcely less strong than those which he gives. In Ireland, it has been held that the Registration Act of that country has the effect of preventing tacking—*Latouche v. Dunsany*, 1 Sch. & Lef., 137—not, however, on the ground that the registration of the second mortgage is notice to the person taking the third, but entirely by force of the clause of their Registry Act, which provides ‘that every deed shall be effectual both in law and equity *according to the priority of time of registering the memorial.*’ This settles the point of priority by a clear and express enactment, and secures the preference to the second mortgage. Our Registry Act contains no such clause, and therefore Lord Redesdale’s decisions in that respect do not help us.”

Irish Act.

Intention
and Object
of Acts.

Referring to the intention and object of the Registry Acts, both in this Province and in England, *Robinson, C. J.*, in the case of *Street v. The Commercial Bank*, said: “The danger and inconvenience which they were all intended to guard against were the same, viz.: the peril to purchasers of finding their titles defeated by some prior conveyance which had been kept secret, and which they had no means of finding out.”

Tacking.

Again, upon the practice of tacking, since the English statutes, he said: “There is no point clearer than that on the construction given to these statutes in England. The practice of tacking when there has been no notice of a mesne incumbrance, is upheld just as it was before the Registry Acts.”

Priority.
Valuable
consideration.

A mortgage to creditors to secure their debts is a sufficient valuable consideration to give a prior registered conveyance, precedence over a conveyance previously executed, but registered subsequently. (*Fraser v. Sunderland*, 2 Grant’s Ch. and Appeal Rep. 442).

Crown lands
Voluntary
Assignment
Registration

In the case of *Garside v. King*, 2 Gr. Ch. and Appeal Rep. 673, decided in 1851, King, a vendee of the crown, transferred his interest by way of mortgage to Garside, who took *bonâ fide*. Afterwards King made a second assignment to Williams, for a nominal consideration of £200, but no money

did in fact pass, the consideration mentioned being in fact intended to cover the amount which Williams would be obliged to pay to the government for the balance due on the contract with the vendee. Williams paid the amount due on the foot of the original contract to the district agent appointed by the Crown lands department, who transmitted the assignment to the commissioner for registration, pursuant to 4 & 5 Vic., ch. 100. The plaintiff Garside having heard of this, caused a notice of the prior assignment to himself to be served upon the commissioner of crown lands, who, in consequence refused to permit the registration of the instrument, until the rights of the parties should have been ascertained.

Crown lands
Voluntary
Assignment
Registration

On a bill filed by the mortgagee to set the conveyance to Williams aside, *it was held*, that as against Garside the plaintiff, the second deed was voluntary, and even if it had been registered under the statute regulating the sale of crown lands, it would not have prevailed against the prior incumbrance of the plaintiff.

In the course of his judgment the *Chancellor* said: "With respect to the questions upon the statute 4 & 5 Vic., cap. 100, we are inclined to think that Williams must be regarded as a mere volunteer. King's equitable interest was subject to the vendor's lien for the purchase money. All that he either could, or in fact did dispose of, was his interest in the land, subject to that lien. But for that interest Williams paid nothing. He discharged the amount for which the vendor had a lien; but for the interest of King in the estate beyond that lien, which he had previously mortgaged to the plaintiff, nothing was paid. Now, although the section relied upon is peculiarly framed, we are by no means prepared to accede to the proposition that it has the effect of rendering a subsequent voluntary assignment effectual, in virtue of prior registration, against *bona fide* purchaser for value. It seems to us that the legislature had no such intention.

Stat. 4 & 5
Vic. ch. 100,
Registration
of Crown
lands.

Subsequent
voluntary
Assignment

"But were it otherwise, the assignment to Williams has not been in fact registered. The plaintiff's title is prior in point

of time. The legislature have declared that a subsequent assignment first registered, shall prevail against a prior title. (*Note*, the act here referred to, is the 13 & 14 Vic., ch. 63, sec. 4, passed in 1850), but no subsequent assignment has been so registered; and no authority has been cited to shew that an attempt to register can have the effect of actual registration.

Attempt to
Register.

“Then, assuming the defendant not to have acquired priority under the act, by registration or otherwise, the plaintiff's title must prevail, as it would seem under the rule ‘*qui prior est in tempore potior est in jure*,’ unless the defendant has shown himself to have acquired a better right to call for the legal estate.”

Where there were three mortgages on the same property, and the third was taken without notice of the second, and was afterwards transferred to another person, who thereupon obtained a conveyance to himself of the first mortgage: *It was held* that he could not tack his third mortgage to the first; and the court refused a reference to enquire whether the assignee had or had not notice of the second when he took the conveyance of the third mortgage. (*McMurray v. Burnham*, 2 Gr. Ch. & App. Rep. p. 289, A.D. 1851.)

Assignee of
mortgage.
Tacking.

As the principles involved in this case, notwithstanding the 13 & 14 Vic., chap. 63, section 4, may under some circumstances still form the subject of discussion before the courts of Canada the *Chancellor's* judgment is given fully.

The *Chancellor*—“In this case there were three mortgages. The third mortgagee having foreclosed the equity of redemption of the mortgagor, executed a mortgage to an American mercantile firm, who transferred their security to the plaintiff. The plaintiff subsequently obtained an assignment of the first mortgage, and now seeks to exclude the second mortgage by adding the third mortgage to the first, and thereby obtaining for it priority. The ground on which he rests this claim is, that the persons to whom the third mortgage was made, and who transferred it to him, had no notice of the second mortgage when they advanced their money; and

Notice.

as t
and
mort
shou
stand
occa
want
he al
an es
him.
secon
been
the d
The r
“T
purch
to one
in his
ing th
niable
third
to the
selves
estate
money
to ena
which
their p
priorit
not ch
estate,
estate,
with h
as an
acquir
reason
The d

as they could undoubtedly have gotten in the first mortgage ^{Tacking.} and tacked their own to it, and thereby excluded the second mortgagee, he, as standing in their place, contends that he should, now, be permitted to do the same. This, we understand, to be the only point to be decided upon the present occasion. The plaintiff is obliged to rest his case upon the want of notice in the persons under whom he claims; for ^{Notice.} he alleges no want of notice in himself; and as that fact is an essential ingredient in his title, it must be assumed against him. We are of opinion that his claim to priority over the second mortgagee cannot be supported. No authority has been cited which will warrant it; and it would be carrying the doctrine of tacking a step further than it has been carried. The reasonableness of it, too, is very questionable.

“The principle to which it is referred is, that a party having purchased without notice, should be at liberty to alienate to one who has notice, so as to substitute him in all respects in his place, as he would otherwise be prevented from enjoying the full benefit of his purchase. The principle is undeniable, but does it apply to a case like the present? The third mortgagees are at liberty to transfer their whole estate to the plaintiff in the same plight in which they have it themselves; but the privilege contended for is no part of their estate. It is conceded to persons who have advanced their money in ignorance of an intermediate incumbrance, in order to enable them to extricate themselves from a difficulty into which they have unwittingly fallen. Should they exercise their privilege they acquire priority, and can transfer that priority actually acquired, to a purchaser. But if they do not choose to exercise their privilege, and thereby better their estate, they can transfer their estate, but no more than their estate, to a person who has thrust himself into the difficulty with his eyes open. In all the cases which have been cited as analogous, the interest transferred had been actually acquired before the transfer, and was only not impaired by reason of notice in the party to whom the transfer was made. The doctrine of tacking, which is contrary to the natural ^{Priority transferable.} Tacking.

Tacking.

order of things, was introduced for the protection of parties who had acted *bonâ fide*, and the privilege which it confers is not to be made the subject of speculation. We do not, at all events, feel warranted in extending the doctrine beyond the adjudged cases, and therefore must decide against the claim in the present instance."

The act of 13 & 14 Vic., ch. 63, sec. 4, recited that "*the doctrine of tacking has been found to be productive of injustice and requires correction,*" and the words of the Irish Registry Act (6 Anne, ch. 2), then follow in the enacting part of the clause. Referring to the observations of his honour V. C. *Esten*, in *Bethune v. Caulcutt* (ante); *C. J. Robinson*, in *Street v. Commercial Bank* (ante); and of his honour the *Chancellor* in *McMurray v. Burnham*, on being asked to order a reference upon the question of notice, it seems that tacking has been abolished in this province since the 1st of January, 1851.

Tacking abolished.

Possession not Notice.

The possession of an estate by the first, but unregistered purchaser from a registered owner, is not of itself notice to a subsequent purchaser of the title of such first purchaser.

Registration Sheriff's Deeds.

The prior registration of a sheriff's deed, gives the sheriff's vendee priority over an antecedent but unregistered deed, just as the prior registration of a deed from the party himself would do (*Waters v. Shade*, Gr. Ch. & App. Rep., vol. 2, p. 457), 1851.

Object of Register Acts.

In the course of his judgment on the above case, his honour V. C. *Spragge* made the following observations upon the Registry Act: "The Registry Act of Upper Canada was wisely introduced in anticipation of apprehended evil, and was based upon the Registry Acts of England. At that time real estate was liable to be sold for the satisfaction of debts, as it is now; men in difficulties are more apt, as experience shows, than others are, to contrive evasions of the law. Whether foreseen or not by those who framed the Registry Act, it would, if held to apply to sheriff's deeds, be a very effectual cheque to concealed conveyances by execution debtors. It is in terms sufficiently comprehensive to embrace

Sheriff's Deeds.

sheriff's deeds. I believe it has always been a general ^{Sheriff's Deeds.} practice with purchasers at sheriff's sale to register their deeds just as they would register a deed from an individual; and it is well known how much the register is looked upon in Upper Canada as exhibiting the true state of the title, and it is no doubt the intent of the act that it should be so. To quote once more from the language of the judges in Warburton v. Loveland, they speak of the *leading object* of the act which they were discussing as being that, 'as far as deeds were concerned, the register should give complete information; and that any necessity for looking further for deeds than into the register itself should be superseded;' and they add, 'It is manifest that no construction of the act is so well calculated to carry into effect this, its avowed object, as that which forces all transfers and dispositions of any kind, and by whomsoever made, to be put upon the face of the register so as to be open to the inspection of all parties, who may at any time claim an interest therein.' The case from which I have quoted is a very instructive one, and well worthy of the most attentive consideration.

"I hardly need observe, that since the decision of the case ^{Sheriff's Deeds.} of Doe Brennan v. O'Neill, it has been looked upon as settled law in Upper Canada, that the Register Act applies to sheriff's deeds."

Although the prior registration of a deed executed without ^{Removal from Registry of Deed without consideration.} consideration confers no title upon the grantee, as against a *bonâ fide* purchaser for value, still, as the fact of such a deed being upon the register, with every appearance of conferring priority, will have the effect of creating a cloud upon the title, the court will decree its removal. (Ross v. Harvey, Grant's Chan. & App. Rep., vol. 3, p. 149).

The court said, in the last case, that the bill was founded on a misapprehension of the law. The plaintiff supposed that the defendant, by means of the registration of his deed, their own being unregistered, had acquired a legal priority over them. This was a mistake. The Registry Act operates in favour of purchasers for valuable consideration, and it was

expressly stated in the bill that the defendant paid no consideration for the lands.

Lien for
unpaid purchase
money

A vendor's lien for unpaid purchase money has priority over the lien created by a registered judgment against the vendee. (*Hughson v. Davis*, Grant's Chan. & App. Rep., vol. 4, p. 589.)

Upon this point his honour V. C. *Esten* said: "I have examined all the authorities which I thought it material to consult upon the subject, and they appear to me to establish this rule, namely, that a lien always exists upon lands sold for purchase money unpaid, by implication of law in favour of the vendor; that it lies upon the purchaser to show that it does not exist; that he must show this by evidence of express waiver, or of something incompatible with the lien; and that it is not sufficient to show that the parties were ignorant of, and therefore did not trust to it."

Judgments
prior to 9th
Vic., ch. 34.

Referring to statutes containing enactments respecting the registration of judgments, the learned V. C. continued: "Before the passing of the act 9th Vic., ch. 34, it was generally understood to be settled law that lands and goods stood on the same footing in regard to judgments; that is to say, that a judgment attached upon neither until delivery of the writ to the sheriff. The law is understood to have been settled in this way by the Court of Queen's Bench of Upper Canada, in the case of *Gardner v. Gardner*, 4. U. C. Rep. 520. The statute of 9 Vic., ch. 34, altered the law in this respect, and directed that judgments registered according to its provisions should attach upon and bind lands, as against all persons from the date of such registration. The effect of this statute was, that the legal execution of a judgment creditor, whose judgment had been registered, could not be defeated by a subsequent sale of the lands of the debtor. It did not, however, otherwise alter the position of the judgment creditor. The 13th & 14th Vic., ch. 63, made a further alteration in the law relating to judgments. That statute provides that registered judgments shall in equity bind the lands of the debtor in the same way as if he had signed a

After the
Statute.

Effect of
Statute.

Statute
13th & 14th
Vic., ch. 63.

writing agreeing to charge them with the amount of the judgment. The effect of this statute may be considered to be to give the judgment creditor, whose judgment is registered, a specific lien, whereas before he had only a general lien on the lands of his debtor. The two classes of rights, however, are perfectly distinct, and do not unite so as to render each other more forcible than they would be of themselves. A judgment, as a legal charge, creates only a general lien, as it did before the 13th & 14th Vic., ch. 63; and the specific lien arising from the operation of this statute is merely equitable, although the judgment creditor possessing it he also entitled to proceed against the lands of his debtor by process of legal execution."

The learned judge further said:—"The relative position of the parties then, was this: Hughson had an equitable lien for the £300, and the £918 15s., and Jonathan Davis had a judgment registered in the county where the lands in question are situate, by virtue of which he could either charge them in execution at law, or claim a specific lien upon them in equity; but in the former capacity his lien was general, and therefore did not confer equal equity with the plaintiff's, and, in the latter, his right, in addition to that objection, was subsequent in point of time, and therefore obnoxious to the rule, '*qui prior est in tempore potior est in jure.*' Under these circumstances, I consider that the plaintiff's equitable claims, in respect of the purchase money of the land, must prevail over the judgment of the defendant, Jonathan Davis, even supposing the discharge of the two mortgages to have been valid in point of law and effectual. It is true that Jonathan Davis' judgment was registered; and it may be contended, therefore, that it ought to prevail over the equitable claims of the plaintiff in respect of the purchase money of the lands. I, however, adhere to the opinion which I expressed in *Meacham v. Draper*, that the Register Act does not affect equitable liens or mortgages, or the interest arising from mere contract, as distinguished from actual disposition. Every thing not avoided by the statute in consequence of

Effect of Statute.

Lien, general and specific.

Equitable claim for purchase money.

non-registration stands in the same plight as it did before the Act was passed. The equitable rights of the plaintiff possess the same force as if the Register Act was not in existence, as they are not within its provisions, or affected by them; and, independent of this statute, they are clearly, I think, such as I have described them."

Equitable rights.

The reporter has a note at the foot of the case, to the effect, that since the judgment was pronounced, the law involved in it had undergone further discussion, and that it seemed doubtful whether contracts such as the one relating to the mortgage in question in the cause, for £918 15s., are not within the Registry Act. If they were, the agreement to execute that mortgage was void as against Jonathan Davis, as it might have been registered, but was not.

Sale of mortgagor's interest.
12 Vic. c. 73.

Where land subject to a mortgage, is sold by the sheriff under the statute 12 Vic., ch. 73, "*An Act to provide for the sale under executions, of the interest of mortgagors in real estate in Upper Canada,*" the purchaser acquires only the title of the mortgagor at the time the writ was delivered to the sheriff, not such as he had at the time of registering the judgment.

Judgment creditor.
Equity of redemption.

A judgment creditor purchasing an equity of redemption at sheriff's sale, cannot set up his registered judgment against a mortgage upon the premises made before the delivery of the writ to the sheriff.

And *quære*, whether a stranger purchasing the premises would not be bound to pay off judgment as well as mortgage debts, as forming together a portion of the price of the land purchased. (*Pegge v. Metcalfe*, 5 vol. Gr. Ch. Rep. page, 628).

In the last mentioned case the judgment of the court was delivered in October, 1856, by *Spragge*, V. C. as follows: "This bill is filed in respect of incumbrances created upon the estate of Elisha Morton. They stand thus in order of time—First, a mortgage by Elisha Morton to William Pegge, 14th of February, 1856. Next, judgments recovered by defendant Metcalfe against Elisha Morton, 20th of February, 1847, and registered the same day. Next, mortgage by

Elisha Morton to Silas Morton, 10th of May, 1847, registered 7th of June, 1847. Next, registration of the first mortgage of Elisha Morton to William Pegge, 8th of July, 1847. So that the position of the parties is, as between the two mortgages, that the second has obtained the priority over the first by prior registration; as between the first mortgage and the judgments that the mortgage has the priority. This under the authority of *Beavan v. Lord Oxford*, 2 Jur. N. S. 121, while, as between the judgments and the second mortgage, the judgments are prior in date of recovery and registration.

Judgment creditor. Equity of redemption.

“The mortgaged premises were sold under the provincial statute 12 Vic., ch. 73, by virtue of writs placed in the sheriff's hands on the 6th of July, 1847, upon a judgment recovered by one McGregor against Elisha Morton; and the above judgment creditor Metcalfe became the purchaser at the sum of £50; and the interest of Elisha Morton, that is, his equity of redemption was conveyed to him by the sheriff's deed.

Equity of redemption. Sheriff's Deeds.

“The bill as amended, is by the personal representatives of the assignee of the second mortgagee, against Metcalfe and the personal representatives of the first mortgagee, and prays that the priorities of the several incumbrances may be declared and the land sold for their satisfaction, claiming priority for the two mortgages.

“Independently of the statute it would seem that the first mortgagee having lost his priority over the second by the prior registration of the second mortgage, and the judgments having priority over the second mortgage, the first mortgage would be postponed to both, and the order of the incumbrances would be, first, the judgment; secondly, the second mortgage; and thirdly, the first mortgage; and the question arises upon the effect of the purchase by the judgment creditor of the equity of redemption of Elisha Morton.

“The effect given by the statute to the taking in execution, sale and conveyance under it, is to transfer and vest in the purchaser, all the legal and equitable estate, as the statute

Effect of execution, and sale and conveyance under it.

Effect of execution and sale and conveyance under it.

expresses it, right, title, interest and property, and the equity of redemption of such mortgagor in the lands taken in execution, sold and conveyed "at the time of placing such writ in the hands of the sheriff or other officer to whom the same is directed as well as at the time of such sale"; and to vest in the purchaser the same rights, benefits, and powers as the mortgagor could or would have had if the sale had not taken place.

3rd section, 12 Vic., c. 73.

"The third section enacts that any mortgagee of the lands sold may purchase at the sale; but in that case he is to give a release of the mortgage debt to the mortgagor; and in case any other person shall become the purchaser, and the mortgagee shall enforce the debt against the mortgagor, the mortgagor may recover payment over from the purchaser, and the land shall remain charged with the amount in favour of the mortgagor.

Purchaser of mortgagor's interest.

"If the statute had given to the sale and conveyance of the equity of redemption, the effect of vesting in the purchaser the estate and interest of the mortgagor *at the date of the registering of the judgment* instead of at the date of the placing of the writ in the sheriff's hands, it would perhaps have been more consonant with the statutes which make a registered judgment a charge upon land. As it is, it admits mortgages made between these two periods; and what is sold is the mortgagor's estate or equity to redeem all mortgages subsisting at the latter period; and the amount due upon all those mortgages would necessarily be taken into account by any one bidding at the sale of such equity of redemption; that amount being part of his price for the land. The second mortgage having been made before the delivery of the writ to the sheriff, and the mortgagor's estate at that date subject to it, the estate acquired by Metcalfe by the purchase at sheriff's sale, was the mortgagor's equity to redeem that as well as prior incumbrances, and if the assignee of that second mortgage had enforced payment of it against the judgment debtor, the mortgagor, he might under the third section have recovered it over against Metcalfe. It is clear, therefore, that

Metcalfe is the person to pay that mortgage, and that it remains a charge upon the land after the sale. Purchase of mortgagor's interest.

“Then does the circumstance of the purchaser being also a prior judgment creditor, make any difference, or enable him to claim his judgment as a prior charge upon the land? If Metcalfe puts himself in the position of a prior incumbrancer notwithstanding his purchase, then the holder of the second mortgage is entitled to redeem him, and having done so, being himself only an incumbrancer, is entitled to be redeemed by the owner of the equity of redemption; to receive money in one character which he would be bound to pay back to the same party in another. If a stranger had become the purchaser there could be no doubt, I apprehend, that this second mortgage would continue a charge, and it would be strange if its so continuing could depend upon whether the purchase was by a stranger or another incumbrancer; the thing purchased being the same, by whichever the purchase was made.

“It is not necessary to determine whether in the case of a purchase by a stranger he would be bound to pay off the judgment debts. If bound to do so, the judgment debts as well as the mortgage debts must be taken to be part of the price of the land, and so a stranger purchasing would not without paying both pay the whole price of the land; and *pari ratione*, an incumbrancer purchasing and setting up his incumbrance against subsequent incumbrancers would, by so doing, claim from another a portion of the price which he was himself to pay for the land.

“If, on the other hand, the mortgage debts only, and not the judgment debts, are under the statute to be paid by the purchaser, that is, as between himself and the mortgagor, still in a case where the judgment creditor is himself the purchaser he cannot claim an incumbrance in virtue of his registered judgment, as he would then be claiming an incumbrance upon his own land.

“In either view it would seem to follow that a judgment creditor purchasing an equity of redemption at sheriff's sale, cannot set up his registered judgment against a mortgage

upon the premises purchased, made before the delivery of the writ to the sheriff.

“The decree will be for a sale of the mortgaged premises, the proceeds to be applied in satisfaction of the incumbrances in the order of their priority.”

Registered
Judgment.
Lien.

“In the case of *Dunovan v. Lee*, 5 vol. Grant's Ch. Rep., p. 345, a creditor obtained judgment previously to the statute 13 & 14 Vic., ch. 63, which, after the passing of that act, he registered. Subsequently to this the debtor assigned to a third party his equitable right, as purchaser, to certain lands upon which a small balance of the purchase money remained due: *Held*, that the judgment so registered attached, and that the plaintiff was entitled to payment of his claim out of the proceeds of such lands, which upon a bill by the judgment creditor were ordered to be sold.

Registration
is notice.
13 & 14 Vic.
ch. 63.

In the course of his judgment his honour the *Chancellor* said: “I am inclined to think that the evidence establishes actual notice; but it is unnecessary to determine that, because, under the recent statute, registration is notice. It is said that the 13 & 14 Vic., ch. 63, only applies to judgments entered up after January, 1851. But such a limitation of the 8th section would be quite unwarranted. It provides ‘that the registry of any deed, conveyance, will, or judgment, under the first recited act (9 Vic., ch. 34), or this act, affecting any lands or tenements, shall in equity constitute notice of such deed, conveyance, will, or judgment, to all persons claiming any interest in such lands or tenements subsequent to such registry.’ Now I quite agree that no construction which would give to the act an *ex post facto* operation ought to be adopted, unless such an intention has been unequivocally expressed; (*Moon v. Darden*, 2 Ex. Rep. 22); and upon that principle it will be found, I presume, that rights acquired before this act passed, are not affected by the clause in question. But here the plaintiff's judgment was registered four months after the statute had received the royal assent, and the defendant's deed was a year later. There can be no doubt, therefore, that the case comes within the operation of the statute which clearly entitles the plaintiff to a decree.”

The Registry Act 13 & 14 Vic., ch. 63, has not made any change in the rights of equitable incumbrancers.

13 & 14 Vic.
ch. 63.
Equitable
liens.

A deed of trust was executed by a debtor, and by a mistake in setting out the metes and bounds, a portion of the property intended to be conveyed was omitted; subsequently to which a creditor obtained and registered a judgment against the debtor.

Held, that the assignees in trust were entitled to have the mistake rectified, and that the lien of the judgment creditor did not attach upon the land. (*McMaster v. Phipps*, Gr. Ch. Rep. 5 vol. page 253).

The judgments of their honours the *Chancellor* and the two *Vice Chancellors*, go so fully into the construction of the statute as to warrant their insertion in this place.

The *Chancellor*—"It is established beyond doubt that a portion of the property intended to have been conveyed, and which should have been included in the conveyance, was omitted by mistake, and it follows that the plaintiffs are entitled to have this mistake corrected as against Clarke the grantor. That portion of the estate which was omitted from the conveyance by mistake belongs to them in the eye of this court, and they are entitled to call for a conveyance. The defendant does not contest that proposition, but he contends that under the provisions of the 13th & 14th Vic., ch. 63, the plaintiff's equitable title cannot prevail against his registered judgment.

Mistake.

Equitable
title,
Registered
Judgment.

"That opens several questions upon the construction of the Registry Act, which has not received, as yet, so far as I am aware, any judicial interpretation. The first difficulty which naturally presents itself is to determine whether the statute applies to any instrument other than 'deeds and conveyances,' properly so called; because if it be clear that the statute does not embrace instruments by which estates are affected in equity only, it would seem to follow, that it cannot apply to the present case. A similar question arose upon the construction of the Irish Registry Act, 6 Anne 92, and Lord Redesdale determined that all instruments by which lands

Construction
of Registry
Act.

Construction
of Registry
Act.
13 & 14 Vic.,
ch. 63.

were affected in any way whatever were within that act. It may be doubted, perhaps, whether Lord Redesdale meant to determine more than that the statute embraced all *conveyances*, not only regular legal conveyances, but such as affected the equitable interest only. But his language is much more extensive. He says: (*Latouche v. Lord Dunsarey*, 1 S. & L. 158:) 'I think, therefore, it must be understood from that clause to have been the intention of the legislature *that in whatever manner lands could be affected by any instrument*, that instrument must be brought upon the registry to give it effect against a subsequent *deed* duly registered;' and again, 'the intention was to make priority of registry the criterion of title, to all intents and purposes whatsoever.' Lord Redesdale meant to determine, I think, that the Irish statute included contracts and other instruments not coming within the designation 'deeds and conveyances.'

Irish
Statute.

"It is true that Sir Edward Sugden speaks doubtingly of Lord Redesdale's decisions upon the subject; but they have been sustained; and, without relying on the great learning and ability of the learned judge by whom they were decided, it is admitted the reasoning on which his lordship proceeded is of great cogency; and I am inclined to think that if the matter were *res integra* it ought to prevail. Then, assuming Lord Redesdale's decisions on the Irish Statute to be sound, they seem to me to govern the present case. The expressions in both statutes are the same, 'deeds and conveyances,' and in that under our consideration there are the words 'whereby any lands, &c., in Upper Canada may be in any wise affected *in law or equity*,' which are not to be found in the Irish statute; and apart from the particular expressions used, the argument from general intention appears to me to be much stronger in the present case than upon the Irish statute.

"Assuming that to be the true construction, it follows necessarily, that in cases affected by the Registry Act the legislature must have intended to deprive purchasers for value without notice of that protection which equity was in

the habit of affording them. Previous to the statute a purchaser for value, with the legal estate, could not have been affected by a contract of which he had not notice. A plea of purchase for valuable consideration without notice would have been a complete bar. But if contracts be within the act, that is no longer true; a registered contract would prevail, whether the purchaser have or have not notice. *Drew v. Earl Norbury*, 3 J. & L. 267.

Contract notice.

Registered contracts.

“Taking that to be the true construction of the act, it is said to follow, *a fortiori*, that a registered deed must prevail over equitable interests of whatever nature, unless brought in some way or other upon the registry. That proposition, if true, would put an end to the doctrine of this court, that notice of a prior equity is equivalent to registration, and that in such a case, consequently, priority of registration is of no avail. But that conclusion cannot, I think, be maintained. The doctrine to which I refer had been long recognised as the established rule of the court, and if the legislature had intended to interfere with it, I have no doubt that an express provision to that effect would have been found in that statute. But the statute contains no such provision, probably because the legislature felt the force of Lord Redesdale’s observation, who, speaking of the Irish statute, said: ‘This does not exclude any thing which affects the conscience of the party himself, who claims under the registered deed; *it never was the intention of the legislature to give a priority of right to commit a fraud.*’ I take it to be as clear, therefore, since the statute passed as it was before, that actual notice is equivalent to registration.”

Notice equivalent to registration.

No priority of right to commit fraud.

“What effect has this statute, then, upon equitable rights which have not been created by deeds, conveyances, or written instruments of any sort, but which arise upon parol agreements, or grow out of the conduct of the parties? what is its effect upon parol contracts partly performed? or upon that species of resulting trust, where land has been purchased with the money of one, and the conveyance taken in the name of another? or upon that large class of cases where

Equitable rights not created by deed, &c.

Parol contracts. Resulting trust.

Fraudulent deed.

deeds are set aside by this court for fraud, or for undue influence, or upon grounds of public policy as between guardian and ward, attorney and client, &c. ? It is quite obvious that the statute has no application to such cases. It settles the priority between conflicting deeds or instruments, (if that be the correct construction), which admit of registration; but it does not affect to deal with equitable rights which do not arise upon any deed or written instrument, and as to which, therefore, the provisions of the registry laws are wholly inapplicable. The language and scope of the act shew that equities of this sort were not in the contemplation of the legislature : and indeed, as to them, legislative interference was wholly unnecessary, for a purchaser for value without notice was always protected, and I have already shown that a purchase with notice is not within the act at all.

Statute no application.

What it settles.
What it does not affect.

Equities.

Effect of statute on judgment creditor.

“The provisions of the statute in relation to purchasers being such, its effect upon judgment creditors remains to be considered. Previous to the statute purchasers and judgment creditors stood upon an entirely different footing. A purchaser without notice having the legal estate was always protected ; but a judgment creditor was in an entirely different position. A judgment creditor does not contract for any particular estate, or even for a lien upon any particular estate ; and therefore a plea of purchase for valuable consideration without notice would have been utterly repugnant to the nature of his interest. He had, indeed, in virtue of his judgment, a general lien, or *quasi* lien, upon the estate of his debtor. But that lien was confined, and in reason it should have been confined, to property in which the debtor had the beneficial as well as the legal interest. To have permitted a judgment creditor to fasten upon property because the legal interest was in the debtor, although in substance it belonged to another, would have been contrary to the plainest principles of justice ; this court held, therefore, that the judgment attached only upon the beneficial interest of the debtor, and was in the constant habit of protecting equitable rights, in

opposition to the legal claims of the judgment creditor. Now it must be admitted that this state of the law has been altered to a considerable extent by the recent statute. For some purpose judgments are treated as conveyances, and when registered deeds and judgments come into competition the legislature have declared that they are to take effect according to the date of registration; and an unregistered conveyance is void against a subsequent registered judgment. If that be the effect of the statute, and I am inclined to think it is, then it goes much beyond the English act from which it was borrowed, and its provisions seem hardly consistent with principles of natural justice, for it enables a judgment creditor to realise his debt from property in which the debtor has no beneficial interest. Still, whatever may be our view as to the policy of the act, it is our duty, of course, to give effect to its provisions. But there is nothing in the act which places a judgment creditor on the same footing for all purposes as a purchaser. It is true, indeed, that in cases coming within the operation of the act, an effect has been given to registration, which was previously unknown; but there is nothing in the act which entitles a judgment creditor, in cases unaffected by the registry law, to the rights of a purchaser for value without notice. In such cases a judgment has no greater effect since the statute than it had before. It attaches upon the beneficial interest of the debtor, and upon that only, and does not displace existing equities.

Registered deeds and judgments in competition.

Judgment creditor not on same footing as purchaser.

Judgment attaches on beneficial interest.

“But if that were otherwise; if it could be shewn that upon the proper construction of the act a judgment creditor stands for all purposes in the position of a purchaser; still it will not be contended, I suppose, that he stands in a better position. Now I have shown that a purchaser with notice of an existing equity takes subject to it, and a judgment creditor cannot claim to be regarded with more favour than a purchaser. Assuming the construction for which the defendant contends therefore, he would have been bound to show that at the time he recovered his judgment he had no notice of the plaintiff's equity. But no such case is set up. It is ad-

Judgment creditor with notice of existing equity

Notice.

mitted, on the contrary, that the defendant at that time had full notice of the plaintiff's rights.

"Upon the whole, my opinion is, that the case is not within the Registry Act. Upon the execution of the conveyance under which the plaintiffs' claim, they acquired the whole beneficial interest in the estate, and as to that portion, the legal estate in which remained vested in Clarke, he was a trustee for them, and they are entitled, therefore, to be protected from the entering judgment. *Taylor v. Wheeler*, Ver. 564; *Burgh v. Francis*, 3 Swan, 536 n; 2 Sug. V. & P. 1023, & 1134. But in any view of the act, they are entitled to prevail, as it seems to me, against the present defendant."

Registered judgment. Equitable claim.

Esten, V. C.—"The question arises in this case whether the registered judgment of the defendant should not prevail over the equitable claim of the plaintiffs. This depends upon two other questions—first, whether the Registry Act by implication extinguishes equities of this description as against a registered deed or judgment; second, whether the Registry Act elevates a judgment creditor abstractedly to the position of a purchaser for valuable consideration, having equal equity with a specific purchaser or incumbrancer. I think both of these questions should be answered in the negative. First, I think that equities of this nature are not extinguished by implication (they are certainly not expressly avoided) as against a registered title by the Registry Act, and that the case of equitable mortgages is only mentioned *exempli gratia*; and second, that the character of a judgment creditor is not essentially altered by the operation of the Registry Act as a purchaser. He is still a general incumbrancer, not having equal equity with a specific claimant.

"These two principles exclude Mr. Phipps in this instance. The right of the plaintiffs was not affected by the Registry Act, and the only defence that Mr. Phipps could raise against it was, that he was a purchaser for valuable consideration without notice. But a judgment creditor, we have seen, cannot avail himself of this defence against a purchaser of the particular estate (as I think the plaintiffs in this case are),

not having equal equity with him. The result is, that the claim of the plaintiffs must prevail, if the facts warrant it. On this point it cannot be doubted, I think, that the parcel of land in question was omitted from the deed by mistake, and that deed ought to be rectified in that respect in favour of all creditors who became parties to it within the time limited, or before the registration of the judgment.”

Spragge, V. C.—“I think that the plaintiffs are entitled to have their deed reformed as prayed by their bill, upon these grounds: that they are purchasers for valuable consideration of certain lands which it was intended by the vendor as well as by themselves should be conveyed to them; that by a mistake in the description inserted in the conveyance, a certain portion of these lands did not pass by the conveyance, and the plaintiffs have an equity to have that portion now conveyed to them, by reforming their deed of conveyance or otherwise, unless some other right superior to their's intervene. A superior right is claimed on the part of a judgment creditor who has recovered and registered his judgment in the county in which the lands in question lie since the registration of the conveyance to the plaintiffs; and who claims to stand upon the same footing as a purchaser for valuable consideration without notice registering his conveyance of lands, intended to be conveyed, but not conveyed by the the previously registered conveyance.”

“I do not think that he can under the statute, as certainly he cannot in reason, stand upon the same footing. Before the passing of the statute 13 & 14 Vic., ch. 63, the claim of the judgment creditor to have execution of such lands would have been held clearly inadmissible in this court; for the lands would in equity be the lands of the purchaser, though not yet conveyed to him, and if a purchaser for valuable consideration, as I take these plaintiffs to be, his equitable right is saved to him by the express words of the statute; for the second section, making registered judgments a charge upon the lands of the debtor, has this proviso: ‘provided nevertheless that nothing herein contained shall be deemed, or

Mistake.

Mistake.

Judgment creditor.

Not on same footing as purchaser.

Proviso of Statute.

Saving of
rights of pur-
chasers for
value.

taken to alter or affect any doctrine of courts of equity where-
by protection is given to purchasers for valuable considera-
tion without notice.' In other words, the rights of such
purchasers remain as they were before ; and unless the right
of these plaintiffs would have been affected by a judgment
recovered against the person from whom they were entitled
to a conveyance, it is not affected by the statute. It appears
to me that this proviso, saving the rights of purchasers for
valuable consideration from being affected by registered
judgments, is sufficient for the decision of this case.

Registered
judgments,
and regis-
tered con-
veyances.

9 Vic., c. 34.

13 & 14 Vic.,
ch. 63.

“ There is another ground, however, upon which, I think,
the plaintiffs' rights were unaffected by the judgment. I am
of opinion that the statute does not place registered judgments
upon the same footing as registered conveyances to purcha-
sers for valuable consideration. The whole scope of this and
the former statute, making registered judgments bind lands
(9 Vic., c. 34), appears to me to be against it. The former
statute, after providing for the registration of the certificate
of judgment, goes on to enact that ‘ every such judgment
shall affect and bind all the lands, tenements, and heredita-
ments *belonging* to the party against whom such judgment is
rendered, from the date of the recording of the same in the
county,’ &c. The second clause of the last statute does not
use the word ‘*belonging*,’ but is couched in less popular and
more legal phraseology, but equally confines the effect of
registration to lands remaining in the judgment debtor at the
time of registration. It provides that registration of a judg-
ment shall operate as a charge upon all lands in the county
to which the judgment debtor *at the time of the registering
of the judgment* or afterwards should be seised, possessed or
entitled at law or in equity, or over which he might have any
disposing power exerciseable for his own benefit without the
assent of any other person ; and further, that every judgment
creditor shall have such and the same remedies in a court of
equity against the lands so charged by virtue of the act, as he
would be entitled to in case the judgment debtor *had power*
to charge the same, and had, by writing under his hand, agreed
to charge the same with the amount of the judgment debt.

“It is too plain for argument, that neither by this clause, Interest of judgment debtor ceased. nor by the corresponding clauses in the former act, is any effect given to the registering of a judgment as to lands in which the judgment debtor has ceased to be interested; the words ‘belonging’ and ‘at the time of registering such judgment’ are as explicit as words can be; and the provision, that the remedy in equity should be the same as if the judgment debtor *had power to charge*, and had by writing agreed to charge, excludes the application of the statute from lands over which he had ceased to have such power.

“The statutes have thus defined *what lands* shall be affected Lands affected by registered judgment. by a registered judgment—that is, lands in which at the time of its being registered the judgment debtor had title or interest; no other lands are affected under the statute.

“Then comes the third clause, which creates whatever difficulty can be created under this branch of the act, because, and only because, it mentions a purchaser or mortgagee for value 3rd sec. 13 & 14 Vic. c. 63. for consideration and a judgment creditor together; but this difficulty seems to me to be more in appearance than in reality, for in reading the third clause, we must read with it the second, and we then see what lands are affected by a registered judgment; and the only question then is, whether under the general words of the third clause, we are to make a registered judgment apply to lands to which it is not applied by the second, and from which the application is almost in terms excluded by the second, the office of the second clause Effect of 2nd & 3rd sections. being to define what lands should be so affected. There is nothing in the third clause to give a *new subject matter* for a registered judgment to operate upon; its only office is, so far as registered judgments are concerned, to prescribe how they shall stand as to the lands in the county *upon which they operate*, relatively to unregistered conveyances; and this, although it may limit the operation of the provision to after-acquired property, is, I think, its true construction. A subsequent clause makes registration itself notice; otherwise the necessity for, and the effect of such a provision would be greater; but whether its operation be great or small, or

Effect of 2nd
& 3rd secs.
13 & 14 Vic.,
ch. 63.

whether it may have been inserted to provide against unforeseen consequences, there is no reason for giving to it an effect which, reading the second clause of the act, it appears never to have been intended to have. The existence of that second clause makes all the difference between judgment creditors and purchasers for valuable consideration, for there is no equivalent provision as to the latter in this or any other statute.

“To test it, I would put this case—suppose the second clause had made judgments a charge only upon a certain class of lands, or had expressly, or by implication, excluded lands held by a particular tenure, could it be held that the third clause gave it a wider operation, because, treating of conveyances as well as judgments, it used the general terms lands and tenements or hereditaments? I apprehend there could be no hesitation in holding that judgments were not thereby made to affect any lands to which they were not applied by the second clause. I can see no substantial difference between the case supposed and this; although in the case supposed the true construction is more obvious.

Policy of the
Registry
laws.

“If the statute would bear no other construction than to make judgments a charge upon lands which had ceased to be the lands of the debtor, it would be necessary so to construe it, whatever violation of principle it might involve, and however unjust and mischievous might be its consequences; but I think that its true construction is otherwise. The policy and justice of the registry laws as between purchasers do not apply to judgment creditors. There is reason for preferring a purchaser for value who has registered without notice to one who has a conveyance which he has neglected to register; because, finding no conveyance from his grantor registered, he has reason to believe that no such conveyance exists; but there is no reason for satisfying a judgment debt by the sale of lands which do not belong to the judgment debtor; and, as I read the statute in question, it provides that it shall be satisfied only out of lands which do belong to him.

“Since this case was heard, the question as to the construction of the statute has been ably argued by Mr. McDonald,

in the case of *Ross v. Platt*, against the construction, which I think the proper one. I am glad that it has been so, for in the case now in judgment the defendant, a layman, appeared in person, and offered in defence certain circumstances of hardship which could not influence the decision of the case. The legal point having been since argued, I have, in considering the case, given the same weight to the arguments of Mr. McDonald as if they had been advanced in this case.

"I rest my judgment in this case upon the two grounds which I have stated, because I have not been prepared to assent to the doctrine that equities arising out of instruments incapable of registration, or out of dealings between parties, are to prevail against a subsequent purchaser for valuable consideration without notice, who has duly registered his conveyance; but the doctrine having been propounded by the other members of the court, and made the ground of their decision of this case, it becomes of course the law of this court."

Constructive notice is insufficient in any case to postpone a registered conveyance executed *bonâ fide*.

A lessee of the Canada Company, with a right of purchase, assigned his claim to the plaintiff, and afterwards, in fraud of the plaintiff, obtained in his own name an absolute conveyance from the Company, and conveyed the land to the defendant, a *bonâ fide* purchaser without notice, who paid part of the purchase money, and registered the deed to himself; the plaintiff omitted to register the assignment to him.

Held, that defendant was entitled to hold the land, free from any claim of the plaintiff.—(*Ferrass v. McDonald*, 5 vol. Gr. Ch. Rep. page 310).

The *Chancellor*, after stating the facts of the case, thus proceeded: "Now, assuming the facts to be as I have stated them, and the question of notice, as to which I shall speak presently, to be the only point in dispute, I am of opinion that the contract of March, 1853, cannot prevail against the subsequent registered conveyance. In *McMaster v. Phipps*, decided the other day, I had occasion to consider attentively

Construction
of 13 & 14 Vic.
ch. 63.

Contracts in
equity.

the provisions of the recent Registry Act, 13 & 14 Vic., ch. 63, and the conclusion at which I then arrived was, that the statute is not confined to regular legal conveyances, but embraces every species of contract, by which lands are in any way affected either at law or in equity; and as the grounds upon which I formed that opinion were then stated at length, it is unnecessary to repeat them in this place. It is true that the point was not expressly decided in *McMaster v. Phipps*, and the question is certainly one of some difficulty and of great practical importance; but the opinion which I ventured to express in that case is the best opinion I was able to form upon an attentive consideration of the statute, and I am happy to know that if it be wrong, there is a higher tribunal by which it may be set right without subjecting the parties to unreasonable expense or delay.

“Assuming that to be the true construction of the Registry Act, it follows, I think, that the defendant is entitled to succeed. The plaintiff claims under a contract which materially affects this estate—not a contract for the purchase of the estate, certainly, but a contract which bound Fox’s equitable title, and entitled the plaintiff to call for a conveyance in fee simple at any moment upon fulfilling its conditions—a contract, therefore, by which the estate was materially affected in equity, which for that reason the plaintiff was bound to register, and which, not having been registered, is declared fraudulent and void against the defendant, who is a purchaser for value without notice under a registered conveyance. But the plaintiff contends that the defendant had notice of his contract at the time he made his purchase, and he rests that proposition on two grounds—first, his own alleged possession at the time of the sale; secondly, upon the doctrine of *lis pendens*. But it is quite clear that constructive notice is not sufficient to postpone a registered conveyance. To use the words of Sir William Grant in *Wyatt v. Burwell*, Ves. 439, ‘it is only by actual notice clearly proved that a registered conveyance can be

Notice. Possession. *Lis pendens*.

Constructive notice, Registered conveyance.

postponed; even a *lis pendens* is not sufficient notice for that.' But it is not pretended that the defendant in the present case had actual notice; there is no tittle of evidence to support the allegation, as it has been distinctly denied by the defendant both in his answer and in a subsequent affidavit.

Actual
notice.

"The question upon the Registry Act was overlooked, so far as I recollect, upon the motion. The argument turned principally upon the doctrine, that notice, while any part of the purchase money remains unpaid, is equivalent to notice before the contract, and precludes a plea of purchase for valuable consideration without notice. That doctrine was very much canvassed by Mr. McDonald, but it is quite clear that it has no application to cases falling within the registry law. It may be that the registry law only gives priority to deeds executed upon valuable consideration; that certainly was the effect of the old law; and it will be found, I dare say, that the new law has not made any alteration in that respect—see 13 & 14 Vic., ch. 63, sec. 4; but when the deed has been executed upon valuable consideration, the question whether the purchase money had been wholly paid at the time of notice is, as I apprehend, quite immaterial."

Although the above cases decide that actual notice is necessary to give priority to a subsequent registered conveyance over another conveyance subsequent in date but prior in registration, query whether constructive notice would be sufficient to postpone a registered deed to an instrument not capable of registration.—(Buckley v. Lanauze, Loyd & Goold's Reports Irish Court of Chancery, page 327; *tempore* Plunkett).

Constructive
notice.

The following observations occur at page 341 of the *Lord Chancellor's Judgment*: "Then as to the question of notice, it has been said that in consequence of the registry of deeds of the several purchasers, they are not to be affected by the ordinary rules which affect purchasers with notice, and that in that case the notice must be such a clear notice as would make it fraudulent in the party to set up his title under the Act of Parliament to defeat the antecedent deed. It is

unnecessary to inquire into the accuracy of this mode of expressing the law on the subject. Undoubtedly the notice to affect a registered purchaser is of a different character from that which is sufficient in the case of an ordinary purchaser ; but in this case, and in this country, the Registry Act has no application, inasmuch as under the Irish Registry Act the registry of a will is not provided for, and it is not, therefore, a case between a registered and an unregistered title."

de of
notice
racter
y pur-
gistry
gistry
not,
stered

REGISTRY LAWS.

ACTS COMPRISED IN THE ANALYTICAL INDEX.

- 6 Geo. IV., ch. 7, secs. 19 & 20.
- 9 Geo. IV., ch. 2, secs. 1, 3, & 4.
- 4 Wm. IV., ch. 1, sec. 47.
- 8 Vic., ch. 15.
- 9 Vic., ch. 32.
- 9 Vic., ch. 34.
- 10 & 11 Vic., ch. 16.
- 12 Vic., ch. 35, secs. 42, 43, & 47.
- 12 Vic., ch. 71, sec. 13.
- 12 Vic., ch. 73, secs. 1 & 2, and Form in Schedule A.
- 12 Vic., ch. 91.
- 13 & 14 Vic., ch. 63.
- 14 & 15 Vic., ch. 5, sec. 17.
- 14 & 15 Vic., ch. 7, secs. 5, 8, & 9.
- 14 & 15 Vic., ch. 9.
- 14 & 15 Vic., ch. 45, secs. 1, 2, & 3.
- 14 & 15 Vic., ch. 142, sec. 5.
- 16 Vic., ch. 126.
- 16 Vic., ch. 159, secs. 7, 8, & 24.
- 16 Vic., ch. 182, secs. 64, 65, & 66.
- 16 Vic., ch. 187.
- 18 Vic., ch. 127.
- 19 Vic., ch. 43, sec. 15.
- 19 & 20 Vic., ch. 90, sec. 7.
- 20 Vic., ch. 56, secs. 9, 10, 11, & 12.
- 20 Vic., ch. 57, secs. 19 & 20.

REGISTRY LAWS.

6 GEO. IV., CHAP. 7.

"An Act to amend and make permanent a certain Act of the Parliament of this Province, passed in the fifty-ninth year of the reign of his late Majesty King George the Third, intituled 'An act to repeal the several Laws now in force relative to levying and collecting Rates and Assessments in this Province, and further to provide for the more equal and general Assessment of lands and other rateable property throughout this Province,' and to render more effectual the several Laws of this Province imposing Rates and Assessments, by providing, under certain restrictions, for the levying such Rates and Assessments, by the sale of a portion of the lands on which the same are charged."

[The Royal assent to this Bill was promulgated by Proclamation, under the Great Seal of the Province, bearing date the fourth day of April, 1825.]

XIX. And be it further enacted by the authority aforesaid, That before the sheriff shall deliver to a purchaser any conveyance of lands sold under the provisions of this act, he shall deliver to the register of the county in which such lands are situated a certificate of such sale under his hand and seal of office, stating the name of the purchaser, the sum paid, the number of acres sold, the lot or tract of which the same form part, and the date of such conveyance, and may comprise in any one certificate a schedule of all or any number of such conveyances; which certificate shall be to such register a sufficient authority, in place of a memorial, to record such conveyance or conveyances respectively.

Sheriff's certificate may be registered in lieu of a memorial of conveyance.

XX. And be it further enacted by the authority aforesaid, That the register of any county, having received from the sheriff such certificate as above mentioned, shall, on production of any conveyance made under the authority of this act, enter on record a transcript of such conveyance, which shall be deemed to be a sufficient registry thereof; and for

Registers to enter a transcript of conveyances on record, and grant a certificate thereof, which shall be deemed a sufficient registry.

6 Geo. IV., such registry, and the certificate thereof in the usual form, ch. 7. the register shall be entitled to receive of the party, the sum of two shillings and six pence, and no more.

Fees to register.

9 GEO. IV., CHAP. 2.

“An Act for the relief of the Religious Societies therein mentioned.”

[Passed 25th March, 1828.]

Preamble.
See 3 Vic.
Chs. 73 & 74.

Whereas religious societies of various denominations of Christians find difficulty in securing the title of land requisite for the site of a church, meeting-house, or chapel, or burying ground, for want of a corporate capacity to take and hold the same in perpetual succession; and whereas it is expedient to provide some safe and adequate relief in such cases. Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an act passed in the Parliament of Great Britain, intituled, “An act to repeal certain parts of an act passed in the fourteenth year of His Majesty's reign, intituled, ‘An act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,’ and by the authority of the same, That whenever any religious congregation or society of Presbyterians, Lutherans, Calvinists, Methodists, Congregationalists, Independents, Anabaptists, Quakers, Menonists, Tunkers or Moravians, shall have an occasion to take a conveyance of land for any of the uses aforesaid, it shall and may be lawful for them to appoint trustees, to whom, and their successors, to be appointed in such manner as shall be specified in the deed, the land requisite for all or any of the purposes aforesaid may be conveyed; and such trustees and their

Provision in behalf of certain religious societies, allowing lands to be held for their use by trustees, and their successors, in perpetual succession.

successors in perpetual succession, by the name expressed in such deed, shall be capable of taking, holding and possessing such land, and of commencing and maintaining any action or actions in law or equity for the protection thereof, and of their right thereto.

Geo. IV.,
ch. 2.

III. And be it further enacted by the authority aforesaid, That such trustees shall, within twelve months after the execution of such deed, cause the same to be registered in the office of the register of the county in which the land lies.

Trust deeds
to be regis-
tered.

IV. And be it further enacted by the authority aforesaid, That all conveyances made before the passing of this act, for all or any of the purposes aforesaid, shall be good and valid in law in like manner as if the same had been made after the passing of this act, and subject to the provisions of this act; Provided such conveyance shall have been already registered, or shall be hereafter registered as aforesaid, within twelve months after the passing of this act.

Conveyances
heretofore
made for the
purposes of
this act,
made valid.

Registry.

4 WM. IV., CHAP. 1.

“An Act to amend the Law respecting Real Property, and to render the proceedings for recovering possession thereof in certain cases, less difficult and expensive.”

[Passed 6th March, 1834.]

XLVII. And be it further enacted by the authority aforesaid, That after the passing of this act, a deed of bargain and sale of land in this Province shall not be held to require enrolment or to require registration to supply the place of enrolment for the mere purpose of rendering such bargain and sale a valid and effectual conveyance for passing the land thereby intended to be bargained and sold; Provided

Deed of bargain and sale shall not require enrolment to render it a valid conveyance.

4 Wm. IV.,
ch. 1.
But the ne-
cessity for
registering,
to prevent
a subsequent
purchaser
from gaining
priority,
shall con-
tinue as
before.

always nevertheless, that the necessity of registering such deed of bargain and sale in the register of the county in which the land is situated, in order to guard against a subsequent purchaser of the same lands obtaining title by prior registry, shall continue as before the passing of this act.

8 VIC., CHAP. 15.

“An act to extend the provisions of two certain Acts of the Parliament of the Province of Upper Canada, to other Denominations of Christians than those therein enumerated.”

[Passed 17th March, 1845.]

Preamble. Whereas religious societies of various denominations of Christians, in Upper Canada, find difficulty in securing titles to the land requisite for the site of a Church, Chapel, Meeting-House, Burial Ground, and residence for their Minister, for want of a corporate capacity to take and hold the same in perpetual succession; And whereas, to afford some safe and adequate relief in such cases, it is just and expedient to extend the provisions of a certain Act of the Parliament of the late Province of Upper Canada, passed in the ninth year of the Reign of His late Majesty King George the Fourth, intituled, “An Act for the relief of the Religious Societies therein mentioned,” as amended by a certain other Act of the Parliament of the said Province, passed in the third year of Her Majesty’s reign, intituled, “An Act to amend an Act passed in the ninth year of the reign of King George the Fourth, Chapter Two, intituled, ‘An Act for the Religious Societies therein mentioned,’” to other denominations of Christians than those therein enumerated: Be it therefore enacted by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the Parliament of the United Kingdom of Great Britain and Ireland,

Act of Upper
Canada,⁹
Geo. IV.,
ch. 2, cited.

intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, That whenever any Religious Society or Congregation of Christians, in that part of the Province called Upper Canada, shall have occasion to take a conveyance of land for any of the uses aforesaid, it shall or may be lawful for them to appoint Trustees, to whom and to whose successors, to be appointed in such manner as shall be specified in the deed of conveyance, the land requisite for all or any of the purposes aforesaid may be conveyed; and such Trustees and their successors in perpetual succession, by the name expressed in such deed of conveyance, shall be capable of taking, holding, and possessing such land, and of commencing, maintaining, and defending any action or actions in law or equity for the protection thereof, and of their rights and property therein; any thing in the statutes commonly called the Statutes of Mortmain, or any other Law to the contrary hereof notwithstanding.

Any religious congregation of Christians may hold land for purposes connected with the exercise of their religion.

II. Provided always, and be it further enacted, That such Trustees shall, within twelve months after the execution of such deed of conveyance, cause the same to be registered in the office of the Register of the county in which the said land is situate.

Provide, conveyance to be registered within twelve months

9 VIC., CHAP. 82.

"An Act to make provision for confirming certain Acts of Registrars in that part of this Province formerly Upper Canada."

[Passed 9th June, 1846.]

Whereas, by an act passed during the present session, intituled, "An act to consolidate and amend the registry Laws of that part of this Province which was formerly Upper Canada," it is provided that there shall be a register appointed to be resident in each and every county of

Preamble.

9 Vic., ch. 32. Upper Canada, whose appointment shall be under the Great Seal of the Province ; And whereas the present commissions of registers are not under the Great Seal ; And whereas some delay may take place in issuing new commissions to the registers under the said act, and divers acts have been and may be done by the registers or their deputies, under the former law, which should be confirmed and preserved as effectual : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, "An act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, That, notwithstanding any thing in the said recited act contained, all Entries, Certificates, Registries, and other lawful acts made or done by any register or his deputy, in any county in that part of this Province formerly Upper Canada, at any time before new commissioners shall be issued under the authority of the said recited act, shall have the like power and effect, to all intents and purposes, as if the said recited act had never been passed.

9 VIC., CHAP. 34.

"An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada."

[Passed 9th June, 1846.]

Preamble. Whereas it is expedient to revise the several laws now in force respecting the public registering of deeds, conveyances, wills, and other incumbrances which may affect any lands, tenements or hereditaments, in Upper Canada ; And whereas, also, it is desirable that some provision should be made for

the registering of judgments: Be it therefore enacted by ^{9 Vic., ch. 34.} the Queen's most excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, "An act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, That the act of the Legislature of the late Province of Upper Canada, passed in the thirty-fifth year of the reign of his late Majesty King George the Third, and intituled, "An Act for the Public Registering of Deeds, Conveyances, Wills, and other Incumbrances which shall be made or may affect any Lands, Tenements and Hereditaments, within this Province;" and the act of the said Legislature, passed in the thirty-seventh year of the same reign, and intituled, "An Act to supply the want of enrolment of deeds of Bargain and Sale;" and the act of the said Legislature passed in the fifty-eight year of the same reign, and intituled, "An Act to provide for the Enregistering of Deeds, Conveyances, Wills, and other Incumbrances, which may affect any Lands, Tenements and Hereditaments, the same being executed in the United Kingdom of Great Britain and Ireland, or in any of Her Majesty's Colonies, and to amend an act passed in the thirty-fifth year of His Majesty's reign, intituled, 'An Act for the Public Registering of Deeds, Conveyances, Wills, and other Incumbrances, which shall be made, or may affect any Lands, Tenements or Hereditaments, within this Province;'" and the act of the said Legislature, passed in fourth year of the reign of His late Majesty King William the Fourth, and intituled, "An Act concerning the release of Mortgages;" shall be and the said acts are hereby repealed.

U. C.
35 Geo. III.,
chap. 6.

U. C.
37 Geo. III.,
chap. 8.

U. C.
58 Geo. III.,
chap. 8.

U. C.
4 Wm. IV.,
chap. 16.
Repeal.

II. And be it enacted, That no proceeding, matter, or thing, had or done under and by virtue of the above repealed Proceedings under the said acts to remain valid

9 Vic., ch. 34. acts, shall be altered or rendered invalid by the passing of this act.

A registry office to be kept in each county in Upper Canada.

III. And be it enacted, That there be a Registry Office kept in each and every county in Upper Canada by a register appointed as hereinafter provided, being resident therein; and that when and so often as any new county shall be formed in Upper Canada, it shall and may be lawful for the Governor of this Province to appoint a proper and sufficient person to hold and perform the duties of the office of register therein, and also in like manner to fill up any vacancy or vacancies which may occur either by death, resignation, removal, or forfeiture of any of the registers heretofore or hereafter to be appointed for any such county: Provided always, that all such appointments shall be made under the Great Seal of this Province, and some convenient place in the county shall be named in the commission, where the office of the register shall be held until otherwise ordered.

Proviso.

A register to be appointed in each county.

IV. And be it enacted, That there shall be a register appointed, to be resident in each and every county in Upper Canada, who shall keep an office in the same at the place named in his commission, or at such other place as may be appointed by proclamation, according to the provisions of this act.

Registers may appoint deputies.

V. And be it enacted, That it shall and may be lawful for any register appointed, or hereafter to be appointed, for any county in Upper Canada, from time to time, and so often as such register shall think fit, to nominate a deputy in his office, and to remove him, and appoint another in his place, whenever he may think it necessary to do so: Provided always, that in case of the death, resignation, removal, or forfeiture of office of any register, it shall and may be lawful for the deputy register for the time being to do and perform all and every act, matter and thing, necessary for the due execution of the said office, until a new appointment shall be made.

Proviso.

VI. And be it enacted, That from and after the confirma-^{9 Vic., ch. 34.} tion of any lands to any person or persons, by grant from the Crown, a memorial of all deeds and conveyances which shall be made and executed, and of all wills and devises in writing made or to be made and published, when the devisor or testator shall die, after making and publishing of the same, of or concerning and whereby any lands, tenements or hereditaments, in any county or riding of that part of this Province called Upper Canada, may be in anywise affected in law or equity, may, at the election of the party or parties concerned, be registered in such manner as is hereinafter directed; and that every deed and conveyance that shall, at any time after any memorial is so registered, be made and executed of the lands, tenements or hereditaments, or any part thereof, comprised or contained in any such memorial, shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless such memorial be registered as by this act is directed, before the registering of the memorial of the deed or conveyance under which such subsequent purchaser or mortgagee shall claim; and that every devise by will of the lands, tenements hereditaments, or of any part thereof, mentioned and contained in any memorial registered as aforesaid, and that shall be made and published after the registering of such memorial, shall be adjudged fraudulent and void against a subsequent purchaser or mortgagee for valuable consideration, unless a memorial of such will be registered in such manner as hereinafter directed; and a memorial of any further mortgage or mortgagees, (whether legal or equitable) to a first mortgagee or mortgagees, shall in like manner be registered before it can or shall prevail against a second mortgagee of the whole or any part of the lands, tenements, hereditaments and premises comprised in the first mortgage.

What deeds and instruments may be registered.

Deeds not registered to be void as against subsequent purchasers whose deeds are registered.

The same as to devises.

And as to further mortgages to a first mortgagee.

VII. And be it enacted, That all and every memorial or memorials to be entered and registered, shall be put into

9 Vic, ch. 34. writing, and brought or transmitted to the said office, and in Memorials must be put in writing and brought to the office.

case of deeds and conveyances, shall be under the hand and seal of some or one of the grantors, or some or one of the grantees, his or their heirs, executors or administrators, guardians or trustees, attested by two witnesses, one whereof to be one of the witnesses to the execution of such deed or conveyance, which witness shall, upon oath (except in cases otherwise provided for by this act) before the said register or his deputy, or before any judge of her Majesty's court of Queen's Bench, or any judge of a District Court, or any commissioner of the said Court of Queen's Bench in Upper Canada, prove the signing and sealing of such memorial, and the execution of the deed or conveyance mentioned in such memorial; and in case of wills, the memorial shall be under the hand and seal of some or one of the devisees, his or their heirs, executors or administrators, guardians or trustees, attested by two witnesses, one whereof shall, upon oath before either of the parties aforesaid, prove the signing and sealing of such memorial, which respective oaths the said several parties hereinbefore mentioned are hereby empowered to administer, and shall endorse a certificate thereof on every such memorial and sign the same.

On what evidence they shall be registered.

Memorial of any deed, &c., to contain date of such deed, &c.

VIII. And be it enacted, That every memorial of any deed, conveyance or will, shall contain the day of the month and the year when such deed, conveyance or will bears date, and the names and additions of all the parties to such deed, conveyance or will, or the deviser or testatrix of such will, (as mentioned or set forth in such deed, conveyance or will,) and of all the witnesses to such deed, will or conveyance, and the places of their abode, and shall express or mention the lands, tenements or hereditaments contained in such deed, will or conveyance, and the names of all the townships or parishes within the said county or counties, riding or ridings, where any such lands, tenements or hereditaments are lying or being, that are given, granted, conveyed, devised, or any way affected or charged by any such deed, will or conveyance,

in such manner as the same are expressed or mentioned in ^{9 Vic., ch. 34.} such deed, will or conveyance, or to the same effect; and that such deed, conveyance, or will, or probate of the same, of which such memorial is to be registered as aforesaid, shall be produced to the said register or his deputy at the time of entering such memorial, who shall endorse a certificate on every such deed, conveyance and will, or probate thereof, and therein mention the certain day, hour and time on which such memorial is entered and registered, expressing also in what book, page and number the same is entered, and that the said register or his deputy shall sign the said certificate when so endorsed, which certificate shall be taken and allowed as evidence of such respective registries in all Courts of Record whatsoever; and that every page of such register book, and every memorial that shall be entered therein shall be numbered, and the day of the month and the year and hour or time of the day when every memorial is registered, shall be entered in the margins of the said register books, and of the said memorial; and that every such register shall keep an alphabetical calendar of all townships and parishes within the said county or counties, riding or ridings, with reference to the number of every memorial that concerns the lands, tenements or hereditaments in every such township or parish, respectively, and of the names of the parties mentioned in such memorial; and the said register shall enter or register the said memorials in the same order that they shall respectively come to his hand.

The IXth section was repealed by 16 Vic., ch. 187, sec. 6.

X. And be it enacted, That a memorial of any such deed, conveyance or will, as aforesaid, which shall have been or may be hereafter executed or published in any place without the limits of Upper Canada, shall be registered as aforesaid by the register or his deputy of any county in Upper Canada, in case an affidavit or declaration in writing in cases where by law a declaration is substituted for an affidavit, shall have

*Deeds, &c.,
executed out
of Upper Ca-
nada on what
evidence to
be registered.*

9 Vic., ch. 34. been or shall hereafter be sworn before the mayor or chief magistrate of any city, borough or town corporate in Great Britain or Ireland, under the common seal of such city, borough or town corporate, or before the chief justice or judge of any Court of Queen's Bench in Lower Canada, or of the Supreme Court of any colony belonging to the Crown of Great Britain, or before the mayor of any city, borough or town corporate, in any foreign country, or any consul or vice-consul of her Majesty resident therein, and be brought to the said register or his deputy, wherein one of the witnesses to the execution of such deed, conveyance or will, shall have sworn, or shall hereafter swear to the execution of the same in the manner hereinbefore provided, and also to the place where the same was executed, and in case of wills, one of the witnesses thereto shall have sworn or shall

Proviso.

Proviso as to cases where the registry may be prevented without the fault of the devisee.

will: Provided always, that on producing the will, or the probate thereof, together with such affidavit, the register or his deputy shall and may record the same, and the said register or his deputy shall file the said affidavit, and shall endorse a certificate on the said deed, conveyance, will, or probate thereof, which certificate shall have the same effect as if the said affidavit had been made before the said register or his deputy: Provided also, that no such memorial shall be registered unless the deed, conveyance, will or probate, to which such memorial shall relate, shall be identified as that referred to in such affidavit or affirmation, by a certificate thereof under the hand of such judge or commissioner, or other person before whom the affidavit or affirmation was made or taken, to be endorsed on such deed, conveyance, will or probate.

Case in which the witnesses may be dead or reside permanently out of the province provided for.

XI. And be it enacted, That when the witnesses to any deed, conveyance or will, as aforesaid, shall be dead, or shall be permanently resident out of this province, it shall and may be lawful for the grantee or grantees, his or their heirs, executors, administrators, guardians or trustees, or

their assignee or assignees, to make proof before the justices ^{9 Vic., ch. 34.} in General Quarter Sessions assembled in any district of this province, of the execution of such instrument, and upon a certificate, signed by the chairman and witnessed by the clerk of the peace, that the majority of the magistrates present in such session assembled, were satisfied by the proof adduced of the due execution of the said instrument, it shall and may be lawful for the register of the said county, or his deputy, to record the said deed, conveyance, or other instrument as aforesaid, in manner hereinbefore mentioned, together with the said certificate, and to certify the same, which certificate, from the register or his deputy, shall have the like effect as the certificate to be granted in all other cases.

XII. And be it enacted, That all wills, or the probate thereof, shall be recorded as aforesaid, within the space of twelve months after the death of every respective deviser, testator, or testatrix, shall be as valid and effectual against subsequent purchasers, as if the same had been recorded immediately after the death of such respective deviser, testator, or testatrix; any thing herein contained to the contrary thereof in any wise notwithstanding: Provided always, that in case the devisee, or person or persons interested in the lands, tenements or hereditaments, devised in any such will as aforesaid, by reason of the contesting such will, or by any other inevitable difficulty, without his, her, or their wilful neglect or default, shall be disabled from the recording the same within the respective times hereinbefore limited, then and in such case the recording the same within the space of twelve months next after his, her, or their attainment of such will or probate thereof, or the removal of the impediment aforesaid, shall be a sufficient recording within the meaning of this act; any thing herein contained to the contrary hereof in any wise notwithstanding.

XIII. And be it enacted, That when and so often as any judgment shall be entered up in any suit or action in any

Wills may
be registered
with effect
within
twelve
months after
the death of
the testator

Provided,

Certificate of
judgment
binding
lands, how
obtained.

9 Vic., ch. 34. Court of Record in Upper Canada, whereby any lands, tenements or hereditaments within the same, are or may be affected, it shall and may be lawful for the plaintiff or plaintiffs, defendant or defendants in such action, his or their attorney, to obtain a certificate from the clerk of the court in which such judgment is obtained in his or their favour, which certificate the said clerk is hereby authorised and required to give, and to charge two shillings and six pence, currency, for the same, in the following form :

2a. 6d.

“ In the Court of (as the case may be.)
 “ I hereby certify that judgment was entered up between
 A. B., plaintiff, and C. D., defendant, on the
 Form. day of in a plea of
for pounds, debt
 (or damages) and
 pounds, costs.

E. F., Clerk.”

Such certificate may be registered: effect of such registration.

And the party obtaining such certificate, his or their attorney, shall carry the said certificate to the register or deputy register of the county or counties wherein the lands, belonging to the party or parties against whom such judgment is entered, lie, who, upon the receipt thereof, under the signature of the clerk, and under the seal of the court shall record the same ; and every such judgment shall affect and bind all the lands, tenements and hereditaments belonging to the party against whom such judgment is rendered, from the date of the recording of the same, in the county wherein such lands, tenements, or hereditaments lie, in like manner as the docketting of judgments in England affects and binds lands : Provided always that no unregistered judgment, entered after the passing of this act, shall take affect against a prior registered judgment unless the party who shall have the first registered judgment shall neglect or delay the putting his execution against lands into the hands of the proper sheriff for one year next after the entry of such judgment.

Proviso.

The XIVth section was repealed by 13 & 14 Vic., ch. 63, ^o Vic., ch. 34. sec. 6.

XV. And be it enacted, That every such register, or his ^{Hours and days at which the registers shall attend at their offices.} sufficient deputy, shall give due attendance at his office every day in the year, (except Sunday, Christmas day and Good Friday) between the hours of ten in the forenoon and three in the afternoon, for the despatch of all business belonging to the said office; and that every such register or his deputy shall, when required, make searches concerning all memorials that have been heretofore registered, and concerning all deeds, wills or judgments which may be hereafter recorded, and give certificates thereof under his hand, if required by any person.

The XVIth section was repealed by 16 Vic. ch. 187., sec. 8.

XVII. And be it enacted, That if any person or persons shall at any time forge or counterfeit any certificate, by this ^{Punishment of persons forging certificates.} act authorised or directed, or any affidavit of the execution of any memorial, or any such memorial, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same pains and penalties as in and by an act of parliament of Great Britain, made in the fifth year of the reign of Queen Elizabeth, intituled "An Act against the Forgers of false Deeds and Writings," are imposed upon persons forging or publishing deeds, charters, or writings, sealed court rolls or wills, whereby the freehold inheritance of any person or persons in or to any lands, tenements, or hereditaments, shall or may be molested, troubled or charged; and that if any person or persons shall at any time forswear himself before any register or his deputy, or before ^{Or forswearing themselves.} any judge, commissioner, or other person duly authorised to administer an oath in any of the cases aforesaid, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same penalties as if the oath had been taken in any court of record in this Province.

9 Vic., ch. 34. So much of section XVIIth as relates to forgery was repealed by 10 & 11 Vic. ch. 9, sec. 22.

Act not to extend to certain leases.

XVIII. And be it enacted, That this act shall not extend to any lease for a term not exceeding twenty-one years, where the actual possession goeth along with the lease ; anything in this act contained to the contrary thereof notwithstanding.

Fire proof offices and vaults to be provided for registry office,

XIX. And be it enacted, That safe and proper fire-proof offices and vaults shall be provided within eighteen months after the passing of this act, in each and every county in this province, for the keeping of all books, records, and other papers belonging to the office of register ; and in case the register of any county shall neglect to provide such office and vault within the period aforesaid, the district council shall fix upon the most convenient and eligible site for such office within the county, and cause a proper and sufficient office to be provided at the expence of the district, not exceeding two hundred and fifty pounds, and such office shall from thenceforth be used and occupied as a registry office for the county in which the same may be situate ; and if any register shall not keep his office in the place appointed in his commission, or by proclamation, or, not having a fire-proof office and vaults, shall neglect or refuse to remove to that provided for him as aforesaid, he shall on presentment to the grand jury at any court of General Quarter Sessions, to be made on the evidence or oath of one or more competent witnesses, be liable to be removed from office at the discretion of the Governor ; and it shall be the duty of every clerk of the peace forthwith to forward a copy of such presentment to the Governor : Provided always, that the Governor may fix the time for such removal to the office so provided.

Register removing from the county or becoming wholly incapable, may be removed from office.

XX. And be it enacted, That if any register shall cease to reside within the limits of the county for which he is appointed, or shall become, by sickness or otherwise, wholly incapable of discharging the duties of his office, it shall be

lawful for the Governor to remove him from office, on presentment to the grand jury as aforesaid, made on such evidence as aforesaid; and the clerk of the peace shall in like manner forward a copy of every such presentment.

XXI. And be it enacted, That if any register or his deputy shall neglect to perform his duty as required by this act, or commit or suffer to be committed any undue or fraudulent practice in the execution thereof, and be thereof legally convicted, then such register shall forfeit his said office, and shall be liable to pay treble damages, with full costs of suit, to any person or persons that shall be injured thereby, to be recovered by action of debt, bill, plaint or information, in any of her Majesty's Courts of Record; and any deputy who shall remain in office during any vacancy occasioned by the death, resignation or forfeiture of the register, shall be for the same cause and in like manner liable.

XXII. And be it enacted, That from and after the passing of this act, the Secretary of the Province shall be authorised, and is hereby required to provide a fit and proper register book for each township, reputed township, city and town, the limits whereof are now defined by law in Upper Canada, and that all such register books shall continue to be hereafter of one uniform size or nearly so, and from the time such books shall be so provided and received at the respective registry offices, it shall be the duty of every person who shall hold or execute the said office of register, to keep and cause to be used for that purpose a separate register book of or for each township, and reputed township, and of and for every city and town, the limits whereof shall be defined by law within the county or riding for which they shall hold such office or appointment of register; and that thereafter whenever any such register shall require a new register book, the same shall in like manner be provided by the Secretary of the Province for the time being, and the necessary expense incurred thereby, from time to time, shall be defrayed by the district council of the district in which such respective counties shall be situate.

9 Vic., ch. 34.
How regis-
tered mort-
gages or
judgments
may be
discharged.

XXIII. And be it enacted, That when any registered judgment or mortgage is satisfied, it shall and may be lawful for the register or his deputy, on receiving a certificate in the form in the schedule to this act marked A., in respect to mortgages, duly proved by the oath of a subscribing witness, in the same manner as hereinbefore provided for the proof of deeds and other instruments affecting lands, from the person entitled to the amount of such mortgage, or the attorney of such person, and in case of judgments on receiving a satisfaction piece under the seal of the court in which such judgment is entered and signed by the clerk thereof, to write the word "discharged," and affix his name in the margin of the register wherein the said judgment or mortgage is registered, which shall be deemed a discharge thereof; and such certificate or satisfaction piece shall be filed and numbered and entered on the margin of the register under the word "discharged."

Proviso.
Certificate of
payment of
condition of
mortgage to
be valid and
effectual in
certain cases.

XXIV. Provided always, and be it enacted, That any certificate of payment or performance of the condition of any mortgage by the mortgagee, his heirs, executors, administrators or assigns, heretofore given and registered under the provisions of the act herein first above cited and repealed, or which having been given under the provisions of the said act may be registered under this act, or which may be hereafter given and registered under the provisions of this act, whether the same shall have been given or shall hereafter be given either before or after the time limited by such mortgage for payment or performance as aforesaid, shall be and the same is hereby declared to be valid and effectual in law as a release of such mortgage, and as a reconveyance of the original estate of the mortgagor therein mentioned.

The proviso to section XXIV. was repealed by 10 & 11 Vic., ch. 15, sec. 2.

Registers to
take an oath
of office.

XXV. And be it enacted, That every such register, before he enters upon the execution of the said office, shall

be sworn before any two or more of the justices of the peace ^{o Vic., ch. 34.} for the district wherein such register shall reside, who are hereby empowered and required to administer such oath, in these words :

“ You swear that you will well, truly, and faithfully perform and execute the office and duty that is directed and required by any act of the Legislature of this Province, in registering deeds, memorials of deeds, conveyances and wills within the county of The oath. so long as you shall continue in the said office, and that you have not given or promised, directly nor indirectly, nor authorised any person to give any money, gratuity or reward whatsoever, for procuring or obtaining the said office for you : So help you God.”

XXVI. And be it enacted, That when and so often as the said register shall appoint any deputy to execute the said office, such deputy shall, before he enters upon the execution thereof, take the said oath appointed to be taken by the register, before two or more justices of the peace for the district wherein he may be, (who are hereby empowered and required to administer such oath); and that every register, at the time of his being sworn into the said office, shall also enter into a recognizance with two or more sufficient sureties, to be approved of by three or more of the justices of the peace of the district, by writing under their hands and seals, in the penalty of one thousand pounds, unto her Majesty, her heirs and successors, to be taken by the same justices of the peace that approved of his security, conditioned for the true and faithful performance of his duty in the execution of his said office, in all things directed and required by this act, the same to be transmitted by the said justice of the peace, within six months after the date thereof, into the court of Her Majesty's Bench in Upper Canada, there to remain amongst the records of the said court. Deputies to be sworn.

XXVII. And be it enacted, That the register or his deputy shall not be compelled to register any deed, convey-

No deed, &c., need be registered until the fees thereon be paid.

9 Vic. ch. 34. **ance, will, or other instrument, unless the fees authorised by this act shall be previously paid thereon.**

Provision in case of death, &c., of register.

XXVIII. Provided nevertheless, and be it enacted, That when any register shall die or surrender his office, and that, within the space of one year from and after such death or surrender, no misbehaviour appears to have been committed by such register in the execution of his office, then and in such case, at the end of the said one year after his death or surrender, the recognizance entered into by him shall become void and of no effect to all intents and purposes whatever.

Seal of a corporation to be sufficient evidence to justify the registration of their deed.

XXIX. And be it enacted, That the seal of any corporation affixed to any deed, conveyance, memorial or instrument in writing, shall of itself be sufficient evidence of the due execution of such deed, conveyance, memorial or instrument in writing, by such corporation, for all purposes respecting the registering thereof, and no further evidence or verification of such execution shall be required for the purpose of registry; any law or custom now in force to the contrary notwithstanding.

Governor may remove the registry office in a county to the chief town.

XXX. And be it enacted, That whenever it shall appear to the satisfaction of the governor of this province, that the register's office in any county is situated inconveniently for the public, it shall be lawful for him by proclamation, to order the said office to be removed to such other place in the county as he shall deem expedient.

Preamble.

XXXI. And whereas it is desirable that registers should be enabled to afford purchasers and other persons making searches, information respecting the original grantee of each lot, piece, parcel or tract of land within their respective county or counties, together with the local situation of the same: Be it therefore enacted, That it shall be the duty of the officer or person performing the duties formerly assigned to the Surveyor-General of the province, to furnish each register with a list of names of all persons in whose favour

Surveyor General to furnish registers with certain information.

patents may be heretofore issued from the crown for grants ^{9 Vic., ch. 34.} of land within their respective county or counties, or which may from time to time hereafter issue, and also with copies ^{Also certain maps.} of all plans or maps of towns and townships within the same, within twelve calendar months after any register shall in writing make an application to the said officer or person performing such duties as aforesaid for the same.

XXXII. And be it enacted, That where any portion of a ^{Duty of register when portion of a county is set apart so as to form another county.} county is separated or set apart so as to form another county, or a part thereof, it shall be the duty of the register of the first mentioned county, to furnish a statement of the registration of such titles as may have been registered, of lands lying in the part so separated, to the registers of the new county and of the county of which it shall form a part, setting forth the dates of the deeds and the particulars of the lots or parcels of lands to which they respectively relate or refer.

XXXIII. And be it enacted, That any person, corpora- ^{When a company, &c., shall subdivide any land into town lots, a plan or map of such land may be lodged in registry office.} tion or company of persons, who have heretofore or shall hereafter survey and subdivide any land into town or village lots, differing from the manner in which such lands were described as granted by the crown, it shall and may be lawful for such person, corporation or company, to lodge with the register of the county a plan or map of such town or village lots, shewing the numbers and ranges of such lots, and the names, sites and boundaries of the streets or lanes by which such lots may be in whole or in part bounded, together with a declaration to be signed by such person, or by the lawful officer, agent or attorney of such corporation or company, that the said plan contains a true description of the lots and streets laid out and appropriated by such person, corporation or company, and thenceforth it shall be lawful for the register to keep an index of the land described on such map or plan as a town or village, or part of a town or village, by the name by which such person, corporation or company shall designate the same.

9 Vic., ch. 34. **XXXIV.** And be it enacted, That for and notwithstanding any thing in this act contained, it shall not be necessary to appoint a register for each of the following counties, namely: Lennox, Addington, Prescott, Russell, Lincoln and Welland; but for the purposes of registration of titles under this act, it shall and may be lawful to appoint one register for the counties of Lennox and Addington, one for the counties of Prescott and Russell, and one for the counties of Lincoln and Welland: Provided always, that in the event of a vacancy in the office of register of either of the said united counties, it may be lawful for the Governor-General in his discretion to divide the said counties in which any such vacancy may happen, and to appoint a register for each county respectively.

Interpretation clause.

XXXV. And be it enacted, That the words, "Upper Canada," throughout this act, shall be always construed to extend to and mean that portion of this province which formerly constituted the Province of Upper Canada; and that this act shall not apply to that portion of this province formerly constituting the Province of Lower Canada in any way whatsoever, and the words, "Governor of the Province," shall include the Lieutenant-Governor or person administering the government of this province.

SCHEDULE A.

Above referred to.

To the Register of the County.

I, A. B., of _____ do certify that C. D., of _____
 hath satisfied all money due upon a
 certain mortgage made by the said C. D. to me, bearing date
 the _____ day of _____ one thou-
 sand eight hundred and _____ and registered at _____

of the clock in the forenoon of the _____ day of ⁹ Vic., ch. 24.
 following, and that such mortgage is therefore discharged.

As witness my hand, this _____ day of _____ 18

E. F., of _____ (Signed) A. B.
 G. H., of _____ } Witnesses.

10 & 11 VIC., CHAP. 16.

“An Act to explain and amend an Act passed in the ninth year of Her Majesty’s Reign, intituled, ‘An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada.’”

[Passed 28th July, 1847.]

I. Whereas the wording of the first part of the twenty-fourth ^{Preamble.} section of an act passed in the ninth year of Her Majesty’s reign, intituled, “An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada,” is such as to have caused doubts to arise as to whether there is not a clerical error in the said part of the said section consisting of the substitution of the word “mortgagee” for the word “mortgagor,” and whereas there is in reality no such clerical error, but the converse error does occur in the last line of the proviso at the end of the said section, in which the word “mortgagor” has been substituted for “mortgagee,” and it is expedient to remove such doubts and correct such error: Be it therefore declared and enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, “An Act for re-uniting the Provinces of Upper and Lower Canada, and for the Government of Canada,” and it is hereby declared

Doubts respecting section 24 of act 9 Vic., c. 34, stated.

10 & 11 Vic., and enacted by the authority of the same, That the said section 16. of the said act was intended to refer and does refer to any certificate by the mortgagee, his heirs, executors, administrators or assigns, of payment or performance of the condition of any mortgage, given or registered as therein mentioned.

Proviso at the end of the said sec. repealed. II. And be it enacted, That the said proviso at the end of the said twenty-fourth section of the said act, shall be and the same is hereby repealed; and it is hereby declared and provided that such certificate as is mentioned in the said section and in this act, if given after the expiration of the period within which the mortgagor had a right in equity to redeem, shall have had and shall have the effect of defeating any title remaining vested in the mortgagee, or his heirs, executors, administrators or assigns, but shall not have had nor shall have the effect of defeating any other title whatsoever.

True effect of the certificate as before said declared.

12 VIC., CHAP. 35.

“An Act to repeal certain Acts therein mentioned, and to make better provision respecting the admission of Land Surveyors and the Survey of Lands in this Province.”

[Passed 30th May, 1849.]

Original owners or their heirs, &c., to deposit plans of towns, villages &c., laid out by them. U. C. XLII. And be it enacted, That the original owner or owners of the lands forming the site of any town or village in Upper Canada, mentioned in the next preceding section of this act, or the agent or agents, heirs or other legal representatives of the original owner or owners of any such town or village, or any original division thereof, shall, within one year from and after the passing of this act, make or cause to be made and deposited in the registry office of the county wherein such town or village is situate, a fair and correct plan or map of such town or village, or original division thereof, on a scale not less than an inch to every four chains,

Plan to be certified.

and lay down thereon, or cause to be laid down thereon, all ^{12 Vic., c. 35.} roads, streets, lots and commons within the same, with the courses and width of the roads, streets and commons, and the width and length of all lots, and the courses of all division-lines between the respective lots within the same, together with such information as shall show the lot or lots, concession or concessions, tract or tracts, block or blocks of land of the township wherein such town or village shall be situate, and every such plan or map of every such town or village or original division thereof, shall be certified by some land surveyor, and also by the original owner or owners thereof, or the legal representative or representatives of such owner or owners, as being a correct plan or map of the same; and every copy of such plan or map obtained from such registry office, and certified as correct by the register of such county, shall be taken as evidence of the original plan and survey of such town or village in all courts of record; and if any such owner or owners of any such town or village, or any original division thereof, or their agents, heirs, or other legal representatives, shall refuse or neglect to make or cause to be made, any such plan or map of any such town or village, or original division thereof, and deposit the same in a registry office of the county wherein the same is situate, within one year from and after the passing of this act, he, she, or they shall forfeit and pay for such refusal or neglect, the sum of two pounds ten shillings, and a like sum for every year thereafter until such plan or map shall be made and deposited in the registry office of the county wherein the same is situate; and the payment of any such penalty or penalties shall not be held to free or discharge such owner or owners, their agents, heirs or other legal representatives, from any such penalties which may not have been paid at the time of such payment; and all such penalties, fines and forfeitures may and shall be collected in the same manner and applied to the same purposes as like penalties, fines and forfeitures are required to be collected and applied under and by authority of the sixth and seventh sections of the act

Penalty for neglect.

Effect of payment of any penalty.

Recovery and application of penalties.

12 Vic., c. 35. passed in the eighth year of Her Majesty's reign, and intituled, "An Act to declare certain Lands in Upper Canada liable to Assessment, and to oblige the owners of such Lands to make Returns thereof to the District Treasurer."

Duty of the register in whose office any such plan shall be deposited. U. C.

XLIII. And be it enacted, That whenever any such plan or map of any such town or village, in Upper Canada, or original division thereof, shall be made and deposited in the registry office of the county wherein the same shall be situate, it shall be the duty of the register of such county to make a record of the same, and enter the day and year on which the same shall be deposited in his office; and for such service the said register shall be entitled to charge the same fees, and no more, than are by law established for making a record of any other document, which is by law required to be entered of record in such office; and such register shall thereupon keep a separate book for the registering of title deeds of lands situate in such town or village, in the same manner as is by law required for registering of title deeds for lands situate in townships.

Evidence taken by surveyors in U. C. to be reduced to writing and signed, &c.

XLVII. And be it enacted, That all evidence to be taken by any surveyor as aforesaid, in Upper Canada, shall be reduced to writing, and shall be read over to the person giving the same and signed by such person, or if he cannot write, he shall acknowledge the same as correct before two witnesses, who shall sign the same with the surveyor; and such evidence shall, and any document or plan prepared and sworn to as correct before a justice of the peace, by any surveyor, with reference to any survey by him performed, may be filed and kept in the registry office of the county in which the lands to which it relates shall be situate, subject to be produced thereafter in evidence in any court of law or equity within Upper Canada; and for receiving and filing the same, the register shall be entitled to one shilling and three pence currency; and the expense of filing the same shall be borne by the parties in the same manner as other expenses of the survey.

12 VIC., CHAP. 71.

"An Act to simplify the transfer of Real Property in Upper Canada, and to render certain rights and interests therein liable under execution."

[Passed 30th May, 1849.]

XIII. And be it enacted, That any estate, right, title or interest in lands which, under the provisions of the fifth section of this act, might be validly conveyed or assigned by any party, shall be bound by the judgments of any court of record, and shall be liable to seizure and sale under any writ of execution against such party, in like manner and on like conditions as lands of such party are now by law liable to seizure and sale under execution, and the sheriff selling the same may convey and assign the same to the purchaser in like manner and with like effect as such party might himself have done.

Any interest in lands which might be conveyed under this act to be bound by judgments liable under execution.

12 VIC., CHAP. 73.

"An Act to provide for the Sale under Executions, of the interest of Mortgagors in Real Estate in Upper Canada."

[Passed 30th May, 1849.]

Whereas it is expedient to provide by law, that the interest of mortgagors and their equity of redemption in real estate, may be sold upon executions against lands and tenements in Upper Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall and may be lawful, upon any writ of *fiere facias* lawfully

Preamble.
The interest of a mortgagor may be taken in execution.

12 Vic., c. 73. issued against the lands and tenements in Upper Canada of any person or persons who, or any of whom, may be a mortgagor of real estate in the district, to the sheriff or other officer of which such writ is directed, to seize or take in execution, sell and convey, (in like manner as any other real estate might be seized or taken in execution, sold and conveyed,) all the legal and equitable estate, right, title, interest and property, and the equity of redemption of such mortgagor in any lands and tenements in such district.

Effect of seizure and of the sale and conveyance to be made under it by the sheriff: obligations of the purchaser, &c.

II. And be it enacted, That the effect of such seizure or taking in execution, sale and conveyance, shall be to transfer to and vest in the purchaser or purchasers, and the heirs and assigns of such purchaser or purchasers, all the legal and equitable estate, right, title, interest and property, and the equity of redemption of such mortgagor, in the lands or tenements so seized or taken in execution, sold and conveyed at the time of placing such writ in the hands of the sheriff or other officer to whom the same is directed, as well as at the time of such sale, and to give to and vest in such purchaser or purchasers, and the heirs and assigns of such purchaser or purchasers, the same advantages, benefits, rights, privileges and powers as such mortgagor could or would have had, enjoyed or exercised if such sale had not taken place; and that such purchaser or purchasers of the interest of such mortgagor, or the heirs or assigns of such purchaser or purchasers may pay, remove or satisfy, or cause or procure to be paid, removed or satisfied any mortgage or mortgages, charge or charges, or lien or liens, which at the time of such sale lawfully or equitably existed upon the lands or tenements so sold, in like manner as such mortgagor or mortgagors against whom such writ of *feri facias* was issued, might or could pay, remove or satisfy such mortgage or mortgages, charge or charges, or lien or liens; and that upon such payment, removal and satisfaction thereof being effected by such purchaser or purchasers, or the heirs or assigns of such purchaser or purchasers, such purchaser or

Rights of the purchaser.

purchasers and the heirs and assigns of such purchaser or purchasers, shall take, have, hold, possess and enjoy the same estate, right, title, interest, property, benefit and advantage which such mortgagor or mortgagors against whom such writ of *fieri facias* was issued, might or would have taken, had, held, possessed and enjoyed in case such payment, removal or satisfaction had been effected by such mortgagor or mortgagors, and on payment of the mortgage money to the mortgagee by the purchaser, the mortgagee, his heirs or assigns, shall, if required, give to such purchaser or the heirs or assigns of such purchaser at his or their cost and charges, a certificate of payment and satisfaction of such mortgage, or of the performance of the condition of the same, which may be in the form and to the effect of the schedule to this act marked A., and which certificate shall be of the like effect, and shall be acted upon by registers and others, to the same extent as if the same had been given to the mortgagor, his heirs, executors, administrators or assigns.

12 Vic., c. 73

Purchaser paying mortgage money entitled to a certificate of satisfaction, &c.

SCHEDULE A.

Above referred to.

To the Register of the county of _____
 I, A. B. of _____ do certify that C. D.
 of _____ who hath become the purchaser
 of the interest of E. F. of _____ hath
 satisfied all money due upon a certain mortgage made by the
 said E. F. to me bearing date the _____ day
 of _____, one thousand eight hundred
 and _____, and registered at _____ of the
 clock in the forenoon, (*as the case may be,*) of the
 day of _____ in the same year, (*or as the case may be,*)
 and that such mortgage is therefore discharged.

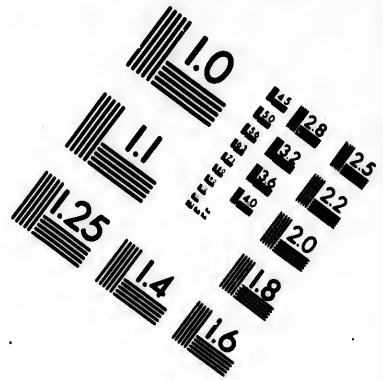
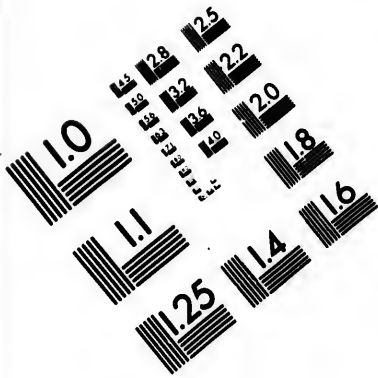
As witness my hand, this _____ day of _____ 18

(Signed,) _____ A. B.

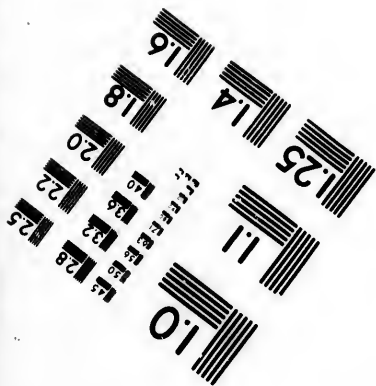
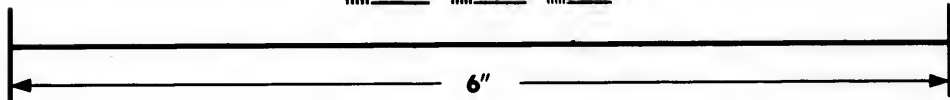
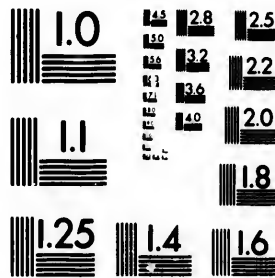
E. H. of
 G. H. of

} Witnesses.





**IMAGE EVALUATION
TEST TARGET (MT-3)**



**Photographic
Sciences
Corporation**

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

18
20
22
25
28
32
36

18
20
22
25
28
32
36

12 VIC., CHAP. 91.

“ An Act to amend certain Acts for the Relief of Religious Societies.”

[Passed 30th May, 1849.]

- Preamble.** Whereas it is expedient to extend the time for the registry of deeds heretofore executed under the provisions of the act of the parliament of Upper Canada, passed in the ninth year of the reign of King George the Fourth, intituled “ An Act for the Relief of the Religious Societies therein mentioned,” and by the act of the Province of Canada, passed in the eighth year of Her Majesty’s reign, and intituled “ An Act to extend the provisions of two certain Acts of the Parliament of the Province of Upper Canada to other denominations of Christians than those therein enumerated,” but which the trustees have neglected to register : Be it therefore enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, “ An Act to re-unite the Provinces of Upper and Lower Canada, an’ for the Government of Canada,” and it is hereby enacted by the authority of the same, That all deeds heretofore executed for any of the uses, interests or purposes of either of the said acts shall be as valid and effectual, if the same be registered within twelve months after the passing of this act, as if they had been registered within the time limited by either of the before in part recited acts, except in so far as they may be affected by the prior registration of other deeds or instruments relating to the same lands.
- Further time allowed for registration of deeds.**
- Exception.**
- Recital.** II. And whereas under the said acts divers religious societies or congregations have by their trustees acquired lands which from circumstances have become inappropriate to the purposes for which they were acquired, and it would be for the advantage of such societies or congregations that their
- Act of U. C.**
9 Geo. 4, c. 2.
- Act of Canada,** 8
Vic., c. 15.

trustees should be enabled to dispose of any such lands and acquire others better adapted for their purposes: Be it therefore enacted, That it shall and may be lawful for the trustees for the time being, for each of the religious societies or congregations to which the said acts are applicable, and the said trustees of each respective society or congregation are, as such trustees, hereby authorised from time to time, upon the express consent of the conference, synod or body having the direction of the temporal affairs of such societies or congregations respectively, first had therefor, by deed under their hand and seal of office, (which seal each body of trustees is hereby empowered to have and make, and from time to time to alter,) to lease, mortgage, sell and convey or exchange such of the lands and tenements held or to be held by any of the said respective trustees, in such portions and in such manner as from time to time may be deemed by the trustees thereof necessary and useful for the purposes connected with the particular trust, subject nevertheless to the consent of such conference, synod or body as aforesaid: and the receipt of the trustees for the purchase money, in any such deed mentioned, shall be an absolute discharge to the purchaser, who shall be in no way bound to see to the application of the same, or of any part thereof: Provided always, that the moneys arising from the sale or mortgage of any such lands which shall have been acquired by the trustees by deed of sale or mortgage shall be applied by the trustees to the purchase of other lands to be held by them for like purposes and trusts, or to the improvement of the same or other lands held by them upon the trusts: And provided also, that no lands acquired by the trustees by free gift for special purposes shall be sold by the trustees without the consent of the grantor or of those who legally represent the grantor.

Trustees may alienate property for the advantage of the congregation, and with the consent of the congregation, &c.

Effect of the receipts of trustees for the purchase money.

Proviso as to application of purchase money.

Proviso as to lands given for special purposes.

13 & 14 VIC., CHAP. 63.

"An Act to Amend the Registry Law of Canada West."

[Passed 10th August, 1850.]

Preamble.

9 Vic., ch. 34.
cited.

Whereas by an act passed in the ninth year of Her Majesty's reign, intituled, "An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada," provision was made for the registration of judgments entered up in any suit or action, in any court of record in Upper Canada, and it was therein enacted, That every such judgment shall affect and bind all the lands, tenements and hereditaments belonging to the party against whom such judgment is rendered, from the date of the recording of the same in the county wherein such lands, tenements or hereditaments lie, in like manner as the docketing of judgments in England affects and binds lands: and whereas at the time of the passing of the aforesaid act, the practice of docketing judgments had been discontinued in England, and whereas doubts have in consequence been entertained as to the effect of the aforesaid provision: be it

Meaning of
the above act
declared.

therefore enacted, &c., That any judgment hereafter duly certified and registered as in the said act provided, shall affect and bind the lands, tenements, and hereditaments therein specified, in like manner as a judgment of any of Her Majesty's superior Courts at Westminster on duly docketed would have bound lands before the practice of docketing judgments had been discontinued in England:

Proviso.

Provided that nothing in this section contained shall be construed as declaratory of the meaning of the said act; and

Proviso.

and provided also, that whenever any judgment shall have been registered before the passing of this act, the party in whose favour the same shall have been rendered, may require the register of any county to mark on the margin of such registry, and sign the same, registered this day
of A. D. eighteen and such
entry of registry shall have the same effect from such date
as if it had been registered under this section.

II. And be it enacted, That a judgment to be entered up ^{13 & 14 Vic., ch. 63.} against any person in any court of record in Upper Canada, after the first day of January, one thousand eight hundred and fifty-one, shall operate as a charge, so soon as a certificate of such judgment shall have been duly registered, upon all lands, tenements and hereditaments situate within the county where such certificate shall have been registered as aforesaid, of or to which such person shall at the time of registering such judgment, or at any time afterwards, be seised, possessed or entitled, for any estate or interest whatever at law or in equity, whether in possession, reversion, remainder or expectancy, or over which such person shall at the time of registering such judgment, or at any time afterwards have any disposing power, which he might without the assent of any other person exercise for his own benefit, and shall be binding against the person against whom judgment shall be so entered up and registered, and against all persons claiming under him after such judgment and registry, and shall also be binding as against the issue of his body, and all other persons whom he might without the assent of any other person cut off and debar from any remainder, reversion or any other interest, in or out of the said lands, tenements or hereditaments; and that every judgment-creditor shall have ^{Remedies of judgment-creditor.} such and the same remedies in a court of equity against the hereditaments so charged by virtue of this act or any part thereof, as he would be entitled to in case the person against whom such judgment shall have been so entered up and registered had power to charge the same hereditaments, and had by writing under his hand agreed to charge the same with the amount of such judgment-debt and interest; and all such judgments shall be claimed and taken to be valid and effectual according to the priority of registering such certificates: Provided nevertheless, that nothing herein contained shall be deemed or taken to alter or affect any doctrine of ^{Proviso as to notice.} courts of equity whereby protection is given to purchasers for valuable consideration without notice.

13 & 14 Vic.,
ch. 63.

All deeds,
devises, &c.,
executed
after 1st
January,
1851, must
be regis-
tered.

III. And be it enacted, That after any grant from the Crown of any lands in Upper Canada, the deed patent thereof issued, every deed, devise, or other conveyance which shall be executed at any time after the first day of January, one thousand eight hundred and fifty-one, whereby any lands, tenements or hereditaments in Upper Canada may be in anywise affected in law or equity, shall be adjudged fraudulent and void, not only against any subsequent purchaser or mortgagee for valuable consideration, but also against a subsequent judgment-creditor, who shall have registered a certificate of his judgment, unless such memorial be registered as by the said first recited act is specified before the registering of the memorial of the deed, devise, or conveyance, or the certificate of the judgment, under which such subsequent purchaser, mortgagee or judgment creditor respectively shall claim, subject nevertheless, as to devisees, to the provisions contained in the twelfth section thereof: Provided always, that nothing herein contained shall be construed to affect the rights of equitable mortgagees as now recognised in the Court of Chancery in this Province.

Proviso.

Deeds, &c., to
take priority
according to
the date of
registry.

IV. And whereas the doctrine of tacking has been found to be productive of injustice, and requires correction: be it enacted, That every deed and conveyance executed after the first day of January, one-thousand eight hundred and fifty-one, a memorial whereof shall be duly registered, and every judgment recovered after the date last aforesaid, a certificate whereof shall be duly registered, shall be deemed and taken as good and effectual both in law and in equity according to the priority of the time of registering such memorial or certificate; and when no memorial of such deed or conveyance shall have been duly registered, then such deeds or conveyances shall be deemed and taken to be valid and effectual, both at law and in equity, according to the priority of time of execution.

And if not
registered.

Who may
receive affi-
davits under
the said act
in Canada
East.

V. And be it enacted, That it shall be lawful for the chief justices and judges of the court of Queen's Bench and of the Superior Court in Lower Canada, and for the circuit judges

in that section of the province, and for the commissioners^{13 & 14 Vic., ch. 63.} appointed by the Superior Courts of Record in Upper Canada, for taking affidavits in Lower Canada, and they are hereby severally required to administer the affidavit or declaration in writing mentioned and referred to in the tenth section of the said first recited act, of the due execution of any deed, conveyance or will, or of any certificate of payment of mortgage money, executed, published or made in Lower Canada.

VI. And whereas by the fourteenth section of the said act it is enacted, That whenever any lands have been or shall be sold under deed of bargain and sale, and such deed hath been only registered or shall hereafter be recorded in the registry office of the county where such lands lie, the same shall be, and is hereby declared to be, as good and valid a conveyance in law as if the same had been regularly enrolled; and whereas the effect of such clause may be to render doubtful the meaning of the forty-seventh section of the Act of the parliament of the late Province of Upper Canada, passed in the fourth year of the reign of his late Majesty King William the Fourth, chapter one, and intituled, "An Act to amend the Law respecting Real Property, and to render the proceedings for recovering possession thereof in certain cases less difficult and expensive," by which it is enacted, that a deed of bargain and sale of land shall not be held to require enrolment, or to require registration to supply the place of enrolment for the mere purpose of rendering such bargain and sale valid and effectual conveyance for passing the land thereby intended to be bargained and sold: be it therefore enacted, That the said fourteenth section of the said first mentioned act shall be and the same is hereby repealed.

VII. And be it enacted, That the registry, or registry of any certificate of judgment as hereinbefore mentioned, shall be deemed and taken to be a registry of such judgment for the purposes of this act.

13 & 14 Vic.,
ch. 63.
Separate
book for
registry of
judgments.

VIII. And be it enacted, That the registry of any deed, conveyance, will or judgment under the first recited act, or this act, affecting any lands or tenements, shall in equity constitute notice of such deed, conveyance, will or judgment, to all persons claiming any interest in such lands or tenements subsequent to such registry.

Registry to
be deemed
notice.

IX. And be it enacted, That the register of every county in Upper Canada, shall, after the passing of this act, enter in a separate book to be kept for that purpose, the certificates of all judgments brought to him for registration, and prepare an alphabetical index thereto.

14 & 15 VIC., CHAP. 5.

“An Act to make certain Alterations in the Territorial Divisions of Upper Canada.”

[Passed 2nd August, 1851.]

Fees to reg-
isters fur-
nishing
statements.

XVII. And whereas by the thirty-second clause of an Act passed in the ninth year of Her Majesty's reign, intituled, “An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada,” the registers of existing counties are required to furnish certain statements of the registration of such titles as may have been registered of lands lying in the part so separated, to the registers of new counties, but no provision has been made for defraying the expenses of furnishing such statement : be it enacted, that every register furnishing such statements shall be entitled to receive from, and be paid by the new county, the sum of sixpence for every folio of one hundred words contained in any such statement so furnished.

14 & 15 VIC., CHAP. 7.

§ 1. "An Act to amend an Act passed in the twelfth year of Her Majesty's reign, intituled an Act to simplify the transfer of real property in Upper Canada, and to render certain rights and interests therein liable under execution."

[Passed 2nd August, 1851.]

V. And be it enacted, That a contingent, an executory, and a future interest and a possibility coupled with an interest in any tenements or hereditaments of any tenure, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent into or upon any tenements or hereditaments of any tenure, may be disposed of by deed, but that no such disposition shall by force only of this act defeat or enlarge an estate tail, and that any such disposition by a married woman shall be made conformably to the provisions of any act in force at the time of such disposition for enabling married women to convey their real estate.

Certain interest in tenements may be disposed of by deed.

VIII. And be it enacted, That when any person entitled to any freehold or leasehold land by way of mortgage, has or shall have departed this life, and his executor or administrator is or shall be entitled to the money secured by the mortgage, or shall have assented to a bequest thereof, or shall have assigned the mortgage debt, such executor or administrator shall have power, on payment of the principal money and interest due on the said mortgage, or if the mortgage money shall have been paid to the testator or intestate in his lifetime, to convey, release and discharge the said mortgage debt and the legal estate in the land; and such executor or administrator shall have the same power as to any portion of the lands, on payment of some part of the mortgage debt, or on any arrangement for exonerating the whole or any part of the mortgaged lands without payment of money, and such conveyance, release, or discharge shall be as effectual as if the same had been made by any person having the legal estate.

Executor of deceased mortgagee, may convey, or release to the lands mortgaged in certain cases.

14 & 15 Vic.,
ch. 7.
Sect. 13. of
above act
extended.

IX. And be it enacted, That the thirteenth section of the said recited act shall extend and be applied to any estate, right or title or interest in lands which may be disposed of by deed under the fifth section of this act.

14 & 15 VIC., CHAP. 9.

“An Act to compel the Registration of Deeds and Instruments creating Debts to the Crown.”

[Passed 2nd August, 1851.]

Preamble.

Whereas it is desirable that all deeds and instruments under seal or of record, whereby any debt, duty or obligation has been or may be created to Her Majesty the Queen, or her successors, shall be registered in manner hereafter mentioned, in order to bind the lands of the parties executing the same or affected thereby: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Legislative Council of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the parliament of the United Kingdom of Great Britain and Ireland, and intituled an “Act to re-unite the provinces of Upper and Lower Canada, and for the government of Canada,” and it is hereby enacted by the authority of the same, That from and after the passing of this act, no deed, bond, contract, or other instrument whatever, under seal or of record, whereby any debt, obligation or duty shall be incurred or created to Her Majesty the Queen, or her successors, shall be deemed valid or sufficient to charge or affect any lands or any interest in lands of the person or persons executing the same or affected thereby as against any subsequent purchaser or mortgagee for valuable consideration of the same lands of such person or persons, or against any subsequent registered judgment on the same lands against such person or persons, unless a copy of such

Instruments
creating
debts to the
Crown not to
be valid
against sub-
sequent pur-
chasers, &c.,
unless regis-
tered before
the deeds of
such pur-
chasers, &c.

deed, bond, contract or other instrument, certified by the proper officer having the custody of the same, shall be registered in the office of the clerk of the Court of Queen's Bench in Toronto, before the execution of the deed, conveyance or agreement of such subsequent purchaser or mortgagee, or the registry of such subsequent judgment.

II. And be it enacted, That it shall be the duty of the said clerk of the Court of Queen's Bench, and he is hereby required upon the production to him of a copy of any such deed, bond, contract, or other instrument as aforesaid, certified by the proper officer, having the custody of the same, to enter and register the same in a book to be kept by him for that purpose, and from and after such registry all the lands of the person or persons executing such deed, bond, contract, or other instrument, shall be bound and charged thereby.

III. And be it enacted, That it shall be lawful for the Governor in Council, if he shall think fit, to order that all or any lands bound by such deed, bond, contract or other instrument, shall be released from the charge created thereby, and upon the production of such order, certified by the president or clerk of the Executive Council, it shall be the duty of the said clerk of the said Court of Queen's Bench, to enter and register the same in the said book as a release of such lands as shall be mentioned in such order, and upon the same being so entered and registered such lands shall be released accordingly.

IV. And be it enacted, That the said clerk of the said Court of Queen's Bench shall be entitled to demand and receive from the person producing the same for registry, the sum of five shillings for the registry of any such deed, bond, contract, or other instrument or release, to be paid to the fee fund in the same manner as other fees are paid to the said fund,

<sup>14 & 15 Vic.,
ch. 9.</sup>

<sup>Such instru-
ments to be
registered in
a separate
book.</sup>

<sup>Governor in
Council may
release lands
bound by
such instru-
ments.</sup>

<sup>Fee to regis-
ter.</sup>

14 & 15 Vic.,
ch. 9.

Such instru-
ment made
before the
passing of
this act to be
registered
within a
certain time.

V. And be it enacted, That all such deeds, bonds, contracts or other instruments made before the passing of this act to Her Majesty, or her predecessors, of the nature mentioned in the first section of this act, shall be registered in the manner in the second section mentioned within one year from the passing of this act, or in default thereof, any lands or interest in lands of the person or persons who shall have executed the same shall be freed and discharged therefrom as to any subsequent purchaser or mortgagee or registered judgment creditor of such person or persons of the same lands for valuable consideration.

Extent of
act.

VI. And be it enacted, That this act shall apply only to Upper Canada.

14 & 15 VIC., CHAP. 45.

“An Act for the relief of Mortgagees.”

[Passed 30th August, 1851.]

Preamble.

Whereas it is expedient that relief should be afforded to mortgagees of freehold and leasehold property in certain cases in which they are not sufficiently protected by law: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the parliament of the united kingdom of Great Britain and Ireland, and intituled, “An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,” and it is hereby enacted by the

Mortgagee of
freehold
property, &c.
may receive
release of
equity of re-
demption,
&c., without
merger of
his debt.

authority of the same, That it shall and may be lawful for any mortgagee of freehold or leasehold property, or any assignee or assignees of such mortgagee, to take and receive from the mortgagor or assignee of such mortgagor, a release of the equity of redemption in such property, or to purchase

the same under any power of sale in his mortgage, or any judgment or decree, without thereby merging the mortgage debt as against any subsequent mortgagee or registered judgment creditor of the same property. 14 & 15 Vic., ch. 45.

II. And be it enacted, That whenever any prior mortgagee or assignees of such prior mortgagee of such property as aforesaid, shall take a release of the equity of redemption of the mortgagor or his assignee in such mortgaged property as aforesaid, or shall purchase the same under any power of sale in his mortgage or any judgment or decree, no subsequent mortgagee or his assignee, or registered judgment creditor shall be entitled to foreclose or sell such property without redeeming or selling subject to such prior mortgagee or his assignee, in the same manner as if such prior mortgagee or his assignee had not taken, received or purchased such equity of redemption of the mortgagor or his assignee. When prior mortgagee shall take release of equity of redemption, &c. subsequent mortgagee, &c. not entitled to foreclose or sell property, &c. without redeeming, &c.

III. And be it enacted, That nothing in this act contained shall be construed to affect any priority or claim which any mortgagee or judgment creditor shall or may have or be entitled to under any act in force relating to the registry of titles to land. Priority of any mortgage not to be affected by this act.

14 & 15 VIC., CHAP. 142.

“An Act to incorporate the Benevolent Societies of the Wesleyan Methodist Church in Canada.”

[Passed 30th August, 1851.]

V. And be it enacted, That all deeds of any real estate made and executed by or in favour of the said corporation (except leases for a term not exceeding nine years) shall be duly registered according to law, within twelve calendar months after the making and execution thereof, otherwise the same shall be void and of no effect: Provided always, that Deeds to be registered. Proviso.

14 & 15 Vic.
ch. 142. nothing herein contained shall be construed to give any greater effect in other respects to the registration of any such deed, within the said term of twelve months, than is by law given to the registration of any other deed of real estate in Upper Canada.

16 VIC., CHAP. 126.

“An Act to amend certain Acts for the relief of Religious Societies.”

[Passed 23rd May, 1853.]

Preamble. Whereas it is expedient further to extend the time for the registry of deeds heretofore executed under the provisions of the act of the parliament of Upper Canada, passed in the ninth year of the reign of King George the Fourth, intituled, “An Act for the relief of the Religious Societies therein mentioned,” and by the act of the province of Canada, passed in the eighth year of Her Majesty’s reign, and intituled, “An Act to extend the provisions of two certain Acts of the Parliament of the Province of Upper Canada, to other denominations of Christians than those therein enumerated,” and the act of the said province, passed in the twelfth year of Her Majesty’s reign, intituled, “An Act to amend certain Acts for the relief of Religious Societies,” but which the trustees neglected to register: be it therefore enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the parliament of the United Kingdom of Great Britain and Ireland, and intituled, “An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,” and it is hereby enacted by the authority of the same, That all deeds heretofore executed for any of the uses, interests or purposes of either of the said acts, shall be as valid and effectual, if the same be registered within twelve

Act of U. C.
9 G. 4, c. 2.
8 V. c. 15.

12. V. c. 91.

Deeds executed under the said Acts to be valid if registered within a certain time.

months after the passing of this act, as if they had been registered within the time limited by either of the before recited acts, except in so far as they may be affected by the prior registration of other deeds or instruments relating to the same lands : Provided always, and be it enacted, that in all cases where any person claiming to hold or be entitled to any real estate or property included in any such deed, on account of the omission to register the same in due time, shall in virtue of such claim have taken possession of such real estate before the passing of this act and have made improvements thereon, and also in all cases where the person claiming to hold or to be entitled to such real property on account of such omission as aforesaid, shall have actually sold or departed with, or shall have actually contracted to sell or depart with such real estate before the passing of this act, no person being at that time in adverse possession of the same, the provisions of this act shall not extend to render invalid any right or title to such estate, but such right or title shall be taken and adjudged to be as if this act had not been passed.

16 Vic., c. 126.

Proviso : as to persons who have taken possession in consequence of omission to register such deeds.

16 VIC., CHAP. 159.

“An Act to amend the Law for the Sale and the Settlement of the Public Lands.”

[Passed 14th June, 1853.]

VII. It shall be the duty of the Commissioner of Crown Lands for the time being, to keep a book for the entry, at the option of the parties interested, of the particulars of any assignments made as well by the original nominee, purchaser or locatee, as also by any subsequent assignee or assignees, of any such claim on lands heretofore located or hereafter purchased in respect thereof, such assignment or assignments being first produced or exhibited to the commissioner aforesaid, together with an affidavit of the due execution thereof, sworn before any justice of the peace, who is hereby fully

Commissioner of Crown Lands to keep a register of assignments of claims to lands; on what proof entries shall be made therein; their effect, &c.

16 Vic., c. 159. authorised to administer the oath in this behalf, and such affidavit shall truly express the time of the execution of such assignment or assignments, and thereupon it shall be the duty of the said commissioner to cause the material parts of every such assignment to be entered or registered in such book of entry or registry, and to endorse on every such assignment a certificate of such entry or registration; and every such assignment so entered or registered shall be valid against any one of a previous date or execution, but not then entered or registered; and in all cases of such assignments being duly registered, it shall and may be lawful that the

Proviso. patent issue in the name of such assignee or assignees; Provided always, that in case the subscribing witness or witnesses to any such assignment shall be deceased, or shall have left the province, it shall and may be lawful for the said commissioner to register any such assignment upon the production of an affidavit or affidavits proving the death or absence of such witness or witnesses, and proving also the handwriting of such witness or witnesses.

Duties of Commissioner under next preceding section extend'd to certain cases.

VIII. The duties imposed upon the Commissioner of Crown Lands by the preceding section of this act, for the registration of assignments of located claims, shall be held to extend to the registration of assignments of claims heretofore located or located hereafter; and all assignments of such locations in Lower Canada executed before notaries, or before one notary and two witnesses, shall be deemed sufficient, and shall be registered accordingly; Provided always, that all such assignments shall be unconditional; Provided also, that all commissioners for taking affidavits in the superior courts of law either in Upper or Lower Canada, shall have the same power and authority for administering oaths in matters relating to the crown, clergy and school lands, as are now exercised by justices of the peace.

Proviso.

Proviso.

Commissioner to transmit yearly to county registers, lists of lands sold, &c.

XXIV. The Commissioner of Crown Lands shall transmit in the month of January in each year to the register of every county or registration district and secretary-treasurer

of any municipality in Lower Canada, a list of the clergy ^{16 Vic., c. 159.} and crown lands heretofore or hereafter sold, or for which licenses of occupation shall be granted in such county or registration district, and upon which a payment has been made; which said crown, clergy and school lands shall be liable to the assessed taxes in the townships in which they respectively lie from the date of such license or sale; and the Commissioner of Crown Lands shall in like manner apprise each register of the cancellation of any license of occupation or patent.

16 VIC., CHAP. 182.

"An Act to amend and consolidate the Assessment Laws of Upper Canada." Owners may within one year redeem estate sold, by paying purchase money and 10 per cent. thereon.

[Passed 14th June, 1853.]

LXIV. And be it enacted, That the owner of any real estate which may hereafter be sold for non-payment of taxes, or his heirs, executors, administrators or assigns, may at any time within one year from the day of sale, redeem the estate sold by paying or tendering to the county treasurer, for the use and benefit of such purchaser or his legal representatives, the sum paid by him, together with ten per cent. thereon, and the said treasurer shall give to the party paying such redemption money, a receipt, stating the sum paid and the object of payment, and such receipt shall be evidence of the redemption.

LXV. And be it enacted, That if the land be not redeemed within the period hereinbefore allowed for its redemption, the sheriff shall, on the demand of the purchaser, at any time after the expiration of the said period of one year, and on payment of the sum of five shillings to him by such purchaser, execute and deliver a deed of sale of such land to the purchaser, his heirs and assigns; and such deed shall state the date and cause of the sale and the price, and shall describe the land by its situation, boundaries and quantity, After expiration of year allowed for redemption, sheriff to deliver a deed of sale of land to purchaser.

16 Vic, c. 182. and shall have the effect of vesting the land in the purchaser, his heirs and assigns in fee simple, free and clear of all charges and incumbrances thereon, except taxes accrued since those for the non-payment whereof it was sold; and the sheriff shall also give the purchaser a certificate of the execution of such deed, containing the particulars aforesaid, under his hand and seal, which for the purpose of registration of the deed in the registry office of the proper county shall be deemed a memorial thereof, and the deed shall be registered, and certificate of the registry thereof granted by the register on production to him of the deed and certificate, and without further proof; and the register shall, for the registry and certificate thereof, be entitled to three shillings and six pence, and no more.

Certificate
for registra-
tion.

Fee to regis-
ter.

Register of
counties to
register sher-
iff's deeds
of lands sold
for taxes be-
fore 1851,
under act of
U. C., 6 G. 4,
c. 7.

Notwith-
standing re-
peal of that
act by 13 &
14 V. c. 60.

LXVI. And be it enacted, That the register of every county shall register any sheriff's deed of land sold for taxes before the first day of January, one thousand eight hundred and fifty-one, according to the provisions of the act of the parliament of Upper Canada, passed in the sixth year of the reign of His Majesty George the Fourth, and intituled, "An Act to amend and make permanent a certain Act of the Parliament of this Province passed in the fifty-ninth year of the Reign of His late Majesty King George the Third, intituled, 'An Act to repeal the several Laws now in force relative to levying and collecting Rates and Assessments in this Province, and further to provide for the more equal and general assessment of lands and other rateable property throughout this Province,' and to render more effectual the several laws of this Province imposing rates and assessments, by providing under certain restrictions, for the levying such rates and assessments by the sale of a portion of the lands on which the same are charged," notwithstanding the repeal of the said act by the act passed in the session held in the thirteenth and fourteenth years of Her Majesty's reign, intituled, "An Act to repeal the Acts and provisions of law relative to Assessments and matters connected therewith in Upper Canada."

16 VIC., CHAP. 187.

"An Act to amend the Registry Laws of Upper Canada."

[Passed 14th June, 1853.]

Whereas the recent changes in the territorial divisions of Upper Canada, have rendered it necessary to make certain changes in the Registry Laws of that section of the province: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the parliament of the United Kingdom of Great Britain and Ireland, and intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, That in every case where any city, town, township, reputed township or place, theretofore making part of any county in Upper Canada, in and for which a separate registry office is or shall be kept, has been or shall be detached from such county and attached to or become part of another county in and for which a separate registry office is or shall be kept, the registry book or books kept for such city, town, township, reputed township or place under the provisions of the twenty-second section of the act passed in the ninth year of Her Majesty's reign, and intituled, "An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada," and all plans or maps of town or village lots in such city, town, township, reputed township or place, lodged in the office of such register, pursuant to the thirty-third section of the said act, shall be delivered by the register of the county from which such city, town, township, reputed township or place is or shall be detached, to the register of the county to which the same is or shall be attached, or of which it shall become part, to be kept by him among the registry books of his office, and dealt with in all respects by

Preamble.

When any place is detached from a county for registration purposes, the books, &c., relating to such place shall be delivered to the register of the county to which it is attached.

9 V. c. 34.

16 Vic., c. 187- him and his successors in office in like manner as the registry books originally made and kept therein: Provided always, that a statement of such titles of or relating to lands lying in such city, town, township, reputed township or place, as may have been registered before separate registry books were kept for each township or place, under the authority of the said act, shall be furnished by the register of the county from which such township or place shall have been detached, to the register of the county to which the same shall have been attached, or of which it shall become part, in the manner provided by the thirty-second section of the act last above cited; and the provisions of this section shall apply to each and every city, town, township, reputed township or place in any new county, and in any county which being theretofore united with another county or counties for the purposes of registration of titles, shall be detached therefrom for such purposes, and become entitled to have a separate registry office.

This sect. to apply to places in new counties, &c.

Statements under s. 32, of 9 V. c. 34, to be accompanied with an index and certificate.

It shall contain certain further particulars.

II. And be it enacted, That the statement to be furnished by the register of a county to the register of any new county under the thirty-second section of the said in part recited act, shall be accompanied by an index thereto, which shall be considered as a part of the said statement, and such register shall carefully compare such statement with the original entries in the register books in his office, and endorse a certificate to that effect on such statement when furnishing the same to the register of such new county: and such statement shall, in addition to the particulars required by the said thirty-second section, contain the names of the parties to such deeds and of the witnesses thereto, and shall also contain the same particulars with regard to wills and other registered documents affecting lands in such new county as are required concerning deeds, and shall also furnish a statement of any wills registered in any general registry book of wills, whether such book was procured before or since the passing of the said act.

III. And be it enacted, That no registry book shall after the passing of this act be furnished by the secretary of the province to any register in Upper Canada under the twenty-second section of the act hereinbefore recited, but whenever any register shall require a new registry book, the same shall be furnished to him by the treasurer of the county on his application therefor, and shall be paid for by such treasurer out of the county funds, and the certificate now given by the provincial secretary in and with regard to any such registry book, or one to a similar effect, shall be given by the judge of the county court having jurisdiction in such county, on the application of the register, and such certificate shall be in the form or to the effect in the schedule to this act annexed: and if such treasurer shall refuse or neglect to furnish such book within thirty days after the application of the register, the register may provide the same, and recover the cost thereof from the municipality of the county. And such registry books shall be as nearly as may be of the like size and description as those heretofore furnished to registers in Upper Canada by the provincial secretary under the said twenty-second section of the said act.

16 Vic., ch. 187.
Register books, not to be furnished hereafter by the province, but by the county.

Size & form to be as at present.

IV. And be it enacted, That each county in Upper Canada, now entitled to return a member or members of the Legislative Assembly to represent such county in the provincial parliament, shall be also entitled to have a separate registry office for the registration of titles, and registers shall be appointed accordingly, but until the establishment of such separate registry offices as may be established under this act, all deeds, wills, memorials or other instruments may be registered in the same offices, and with the same effect, as if this act had not been passed.

Each county returning a member to have a registry office, &c.

V. And be it enacted, That when any deed, will or other instrument, shall embrace different lots or parcels of land situate in different localities in the same county, it shall only be necessary to furnish one memorial of such deed, will or

When a deed relates to lands in several localities in the same county, only one memorial need be filed.

16 Vic., ch.
187.

other instrument, and such memorial shall be copied into the registry book for the city, town, township or place in which the different parcels or lots of land are situate, in the same manner and to the same extent only as if a separate memorial had been furnished in relation to the lands situate within such city, town, township or place respectively, and the register shall make the necessary entries and certificates accordingly: Provided always, that only one certificate of registry shall be allowed or charged for, and that in counting folios to be charged for, the marginal certificates, notes or references shall not be included.

Proviso.

Sect. 9 of U.
V. c. 34, re-
pealed: on
what proof
memorials
shall be re-
ceived of
deeds exe-
cuted in U.
C. but out of
the county
in which the
lands to
which they
relate are
situate.

VI. And be it enacted, That the ninth section of the said in part recited act shall be and is hereby repealed; and instead thereof, be it enacted, That a memorial of any such deeds, conveyances, wills or probate thereof, as shall be made and executed or published in any place within Upper Canada, other than the county in which the lands mentioned therein lie, shall be entered and registered by the register or his deputy as aforesaid, provided an affidavit, sworn before one of the judges of the superior courts of common law or of equity in Upper Canada, or a judge of any county court within his county, or a commissioner duly authorised to take affidavits in the Court of Queen's Bench or the Court of Common Pleas in Upper Canada, be brought to the said register or his deputy, wherein one of the witnesses to the execution of such deed or conveyance shall swear to the execution of the same as also of the memorial thereof, and to the place where the same were executed, and in case of wills, one of the witnesses to the memorial of such will or probate thereof, shall swear to the execution of such memorial; and the same shall be a sufficient authority to the said register or his deputy, to give the party that brings such deed, conveyance, will, or probate thereof and affidavit, a certificate of the registering of the same, which certificate, signed by the said register or his deputy, shall be taken and allowed as evidence of the registry of the same, in all courts of record in Upper Canada, any thing in the said in part recited act to the contrary thereof in anywise notwithstanding.

VII. And be it enacted, That whenever, after the passing ^{16 Vic., ch. 187.} of this act, a deed or conveyance shall be executed under and by virtue of a letter or power of attorney from the grantor or grantors, a memorial of such letter or power of attorney ^{Memorials of letters of attorney may be registered, and how.} may be registered, in the same manner and upon the same evidence as a memorial of a deed or conveyance is now legally registered, and the register shall be allowed the same fees for recording the same, as for a deed or conveyance under this act.

VIII. And be it enacted, That every register in Upper ^{Fees to registers in U. C.} Canada shall be allowed the following fees, and no more, that is to say :

For drawing affidavit of execution of instrument and memorial brought to be registered, if done by the register or his deputy, including swearing and all certificates thereof, ^{Affidavits of execution.} two shillings and six pence ;

For recording every deed, conveyance, will, power of attorney or agreement, including all necessary entries and certificates, six shillings and three pence, but in case such entries and certificates exceed eight hundred words, at the rate of eight pence for every additional hundred words ; ^{Recording deeds, &c.}

For registering certificate of judgment, two shillings and six pence, satisfaction thereof two shillings and six pence ; ^{Certificates of judgment.}

For entering certificate of payment of mortgage money, including all entries and certificates thereof, two shillings and six pence ; ^{Certificates of payment of mortgage money.}

Drawing affidavit of the execution thereof, including the swearing of the witness, when done by the register or his deputy, two shillings and six pence ; ^{Affidavit of execution.}

For searching records relating to the title of any lot or parcel of land not exceeding four references, one shilling and three pence, and one shilling and three pence for every additional four distinct references, and so in proportion for ^{Searches.}

16 Vic., ch. 187.
 Proviso. every number of searches made : Provided always, that in no case shall a general search into the title to any particular lot, piece or parcel of land exceed the sum of ten shillings ;

Extracts. For every extract furnished by the register, including certificate, one shilling and three pence, and where the same exceeds one hundred words, nine pence for every additional one hundred words contained in such extract and certificate.

Registers to keep books of receipts of fees, &c., and make returns thereof. IX. And be it enacted, That every register of a county in Upper Canada, shall keep a book in which shall be entered all the fees and emoluments received by him, by virtue of his office as such register, shewing separately the sums received for registering memorials, certificates and other documents, and for searches, and he shall make a return of such fees and emoluments in detail to the legislature annually.

Sect. 16 of 9 V. c. 34, repealed. X. And be it enacted, That the sixteenth section of the said in part recited act shall be, and the same is hereby repealed.

Word "county" interpreted. XI. And be it enacted, That the word " county " in the foregoing provisions of this act, shall mean any county or union of counties for which a separate registry office is or shall be required by law to be kept.

Commencement of this act. XII. And be it enacted, That the eighth, ninth and tenth sections of this act shall take effect upon, from and after the first day of January, one thousand eight hundred and fifty-four only.

Holidays at registry offices. XIII. And be it enacted, That the following holidays shall be allowed in the several registry offices in Upper Canada, namely, Christmas, New Year's Day, Good Friday, Ash Wednesday, Easter Monday and the Queen's Birth Day.

SCHEDULE.

16 Vic., ch.
187.

Form of Certificate referred to in the third Section of this Act.

This Register contains _____ pages, and is to be used in and for the (City, Town, or Township of, *as the case may be*) in the County of _____ for the Enregistration of Memorials, under the provisions of the Act of the Legislature of the Province of Canada, passed in the ninth year of Her Majesty's Reign, and intituled, "An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada," and of the Act of the said Legislature amending the same, and is provided in pursuance of the requirements of the said Statutes.

Dated this _____ day of _____ in the year of Our Lord, one thousand eight hundred and fifty-

A. B.

Judge of the County Court of

 18 VIC., CHAP. 127.

"An Act to amend the Registry Laws of Upper Canada."

[Passed 30th May, 1855.]

Whereas it is necessary to amend the Registry Laws of ^{Preamble.} Upper Canada in certain particulars: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the parliament of the United Kingdom of Great Britain and Ireland, and intituled, "An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, as follows:

18 Vic., ch.
127.

Judgments
to give no
lien or charge
on lands un-
til registered.

I. No judgment of any court of record in Upper Canada, shall create a lien or charge upon any lands, tenements or hereditaments within the same, or upon any interests in lands that are now or may at any time hereafter be liable to seizure or sale on any execution against lands, until such judgment shall be registered in the manner now required by the law for registering judgments, in the registry office of the county or union of counties in which such lands are situate.

Judgment
creditor not
registered
need not be a
party to fore-
closure.

II. No judgment creditor shall be a necessary party to any bill for the foreclosure of any mortgage, so as to prevent a mortgagee obtaining a complete title by such foreclosure, unless such judgment creditor shall have registered his judgment in such county registry office as aforesaid, before the filing of the bill of such mortgagee for such foreclosure.

What only
shall be
deemed no-
tice of pro-
ceedings in
Chancery by
which title or
interest in
lands shall
be called in
question.

III. The filing of any bill, or the taking of any proceeding, in the Court of Chancery in Upper Canada, in which bill or proceeding any title or interest in lands may be brought in question, shall not be deemed notice of such bill or proceeding to any person not being a party to such bill or proceeding, unless and until a certificate shall be given by the register of the said Court of Chancery to some person demanding the same, in the form mentioned in this section, and registered in the registry office of the county or union of counties in which the lands are situate the title or interest in which is questioned in such bill or proceeding.

“I certify that in a suit or proceeding in Chancery between A. B. and C. D., some title or interest is called in question in the following lands, (stating them).”

Proviso as to
suit for fore-
closure.

Provided always, that no such certificate shall be required to be registered in any suit or proceeding for foreclosure of any registered mortgage.

How decrees
of foreclo-
sure, &c.,
shall be re-
gistered.

IV. Every decree of foreclosure, and every other decree in Chancery affecting any title or interest in land, shall and may be registered by any person, in the county registry

office in the county or union of counties where such land is situate, on a certificate to be given by the register of the said court, stating the substance and effect of such decree, and the lands affected thereby.

V. A memorial of any deed, conveyance, will or power of attorney, affecting or relating to any lands, tenements or hereditaments in Upper Canada, which shall have been or may be hereafter executed or published in any place without Upper Canada, shall be registered by the register or his deputy of any county in which such lands are situate, either on the evidence already required by law, or on an affidavit sworn before any judge of either of the superior courts of common law or equity in Upper or in Lower Canada, or before any judge of the county court in Upper Canada or circuit court in Lower Canada, or a commissioner duly authorised to take affidavits in Upper or Lower Canada, by any of the superior courts of common law, or the register or deputy register of the county in which such lands are situate, wherein one of the witnesses to the execution of such deed, will, conveyance or power of attorney, shall swear to the execution of the same, and also to the place where the same was executed.

VI. It shall be the duty of the register of any county from which any city, town, township, reputed township or place has been or shall be detached, in addition to the books and plans mentioned in the first section of the statute, sixteenth Victoria, chapter one hundred and eighty-seven, to deliver to the register of the county to which the same has been or shall be attached, the original memorials of all deeds, wills and other conveyances whatever of or relating to any lands within such city, town, township, reputed township or place only; and if any such first mentioned register shall refuse to deliver any such books, plans or memorials as in the said recited act or this act mentioned, to such last mentioned register within three months after a demand in writing has been made upon him therefor by such last mentioned

18 Vic., ch.
127.

On what
proof memo-
rials of deeds,
&c., executed
out of U. C.
shall be re-
gistered,

Register of
any county
from which a
place shall
have been de-
tached to de-
liver memo-
rials relating
to lands in it
to register of
county to
which it
shall be at-
tached.

18 Vic, ch. 127. register, such first mentioned register shall be deemed guilty of a misdemeanour, and upon conviction thereof, before any court of oyer and terminer and general gaol delivery, shall forfeit his office, and be liable to a fine in the discretion of such court, not exceeding one hundred pounds.

Penalty for default.

Fees. VII. The following fees shall be taken for the services to be performed under this act by the register of any county :

On registering any certificate of a suit or proceeding in equity, two shillings and six pence.

On registering any certificate of decree, five shillings.

Commencement and application of this act.

VIII. This act shall come into operation on the first day of July, one thousand eight hundred and fifty-five, and shall apply as well to judgments entered of record, and bills filed or proceedings had in Chancery, before as after the passing of this act.

19 VIC., CHAP. 43.

“ An Act to amend, repeal, and consolidate, the provisions of certain Acts therein mentioned, and to simplify and expedite the proceedings in the Courts of Queen's Bench and Common Pleas in Upper Canada.”

[Passed 19th June, 1856.]

Deputy clerks to keep books for minuting all judgments, &c.

XV. Every deputy clerk of the Crown and Pleas shall keep a regular book, in which shall be minuted and docketed all judgments entered by such deputy clerk ; and such minute shall contain the name of every plaintiff and defendant, the date of the commencement of the action, the date of the entry of such judgment, the form of action, the amount of debt or damages recovered, the amount of costs taxed, and whether such judgment was entered upon or by verdict, default, confession, *non pros*, nonsuit, discontinuance, or how otherwise ; and within three months after the entry of each judgment, the deputy clerk shall transmit to the princi-

pal clerk of the proper court in Toronto, every such judgment-roll and all papers of or belonging thereto, and such judgment shall be also docketed in the principal office, and in case the original judgment-roll be lost or destroyed, so that no exemplification or examined copy thereof can be procured, a copy of the entry in either of such docket books, &c. certified by the clerk or deputy clerk having such book in his custody, shall be evidence of all matters therein set forth and expressed: and when any such deputy shall enter up any judgment in either of the said courts, he may give to the party on whose behalf it is entered, or to his legal representative, a certificate signed by him of such judgment, containing the like particulars as are required in certificates of judgments given by the Clerks of the Crown and Pleas, and such certificate may be registered in the registry office of any county in Upper Canada, and the same certificate and the registration thereof, shall have the like force and effect in binding or operating as a charge upon lands, tenements, and hereditaments, situated within such county, as if the certificate had been granted at the principal office at Toronto.

19 Vic., c. 43.
Judgments
to be also
docketed at
Toronto.

If the original
roll be
lost, copies
may be used,
&c.

Deputy
clerks may
give certifi-
cates of judg-
ments
entered by
them, which
certificates
may be regis-
tered in the
proper
county and
bind lands.

19 & 20 VIC., CHAP. 90.

“An Act to simplify and expedite the proceedings in the County Courts in Upper Canada, and to alter and amend the law in relation to these Courts.”

[Passed 1st July, 1856.]

VII. The clerk of each and every county court shall keep a regular book, in which shall be minuted and docketed all judgments entered by such clerk; and such minutes shall contain the name of every plaintiff and defendant, the date of the commencement of the action, the date of the entry of such judgment, the form of action, the amount recovered, the amount of costs taxed, and whether such judgment was entered upon or by verdict, default, confession, *non pros*, nonsuit, discontinuance, or how otherwise; and in case the original judgment-roll be lost or destroyed, so that no exem-

Clerk to keep
a book for
docketing
judgments,
and what it
shall contain

19 & 20 Vic.,
ch. 90.

Copies of
entries to be
evidence in
certain cases.

Certificates
may be given
and regis-
tered so as to
bind lands.

plification or examined copy thereof can be procured, a copy of the entry in such docket book, certified by the clerk having such book in his custody, shall be evidence of all matters therein set forth and expressed; and when any such clerk shall enter up any judgment in either of the said courts, he may give to the party on whose behalf it is entered, or to his legal representative, a certificate signed by him, of such judgment, containing the like particulars as are required in certificates of judgments given by the Clerks of the Crown and Pleas, and such certificate may be registered in the registry office of any county in Upper Canada, and the same certificate and the registration thereof shall have the like force and effect in binding or operating as a charge upon lands, tenements and hereditaments situate within such county, as if the certificate had been granted by a clerk or deputy clerk of the crown.

20 VIC., CHAP. 56.

“An Act for further increasing the efficiency and simplifying the proceedings of the Court of Chancery.”

[Passed 10th June, 1857.]

Deputy regis-
ter may give
certificate
under 18 V.,
c. 127.

IX. When a bill or other proceeding in Chancery is filed in the office of a deputy register of the said court, a certificate thereof for registration under the act intituled, “An Act to amend the Registry Laws of Upper Canada,” may be given by such deputy register, and the registration of such certificate shall have the same effect as the registration of a like certificate by the register of the said court.

Registration
of decree or
order for pay-
ment of
money in
order to
bind lands.

X. Every decree or order of the said court which has already been or shall hereafter be made whereby any sum of money, or any costs, charges or expenses, shall be ordered to be paid, either at one time or in several or periodical payments or sums to any person or persons, or into the said court, or to the credit of any cause in the said court, or otherwise, may be registered in any county registry office

upon delivery to the county register of a certificate of the ²⁰ *Vie., c. 55.* register or of a deputy register of the said court, stating the title of the cause or matter in which such decree or order shall have been made, and the date of the decree or order, and the amount of the moneys thereby or by any report made in pursuance thereof mentioned to be paid; and such certificate shall be entered and recorded by such county register in the same books and in the same manner as certificates of judgments at law are now entered and recorded, and the registry of any such certificate shall have, to all intents and purposes, the same effect as the registry of a judgment at law now has, and may be discharged in the same manner as a judgment at common law.

Form and effect of such registration.

XI. The said Court of Chancery, upon being satisfied by proof that some specified part of the real estate of any person ordered by any decree or order of the said court to pay any sum or sums of money, will be sufficient security for the payment of such sum or sums of money, may direct either in the same decree or order or by a subsequent decree or order, that the charge created by any such decree or order be confined to such part of the real estate of the person or persons so liable, and that the residue of the real estate of such person shall be unaffected by such registration, and in case such restriction is contained in the original decree or order, the register's or deputy register's said certificate shall state the same, and if such restriction is contained in some subsequent order, the register's or deputy register's certificate thereof may be registered by either party.

Court may confine the effect of the registration to specified property proved to be sufficient.

XII. The said court may, in any proceedings to be taken in the same cause in which an order or decree for the payment of money shall have been made and so registered as to become a charge on real estate, order the whole or any portion of the real estate bound, to be sold for the satisfaction of the money so charged upon it with interest and costs, without the delay or expense of a new suit being instituted to procure such sale.

Court may order the real estate bound to be sold, without any new suit.

20 VIC., CHAP. 57.

“An Act to amend the Common Law Procedure Act, 1856, and to facilitate the remedies on Bills of Exchange and Promissory Notes.”

[Passed 10th June, 1857.]

Registration of judgment to bind land only three years from registration, or one year from passing of this act, unless re-registered.

XIX. Every judgment registered against land in any county shall cease to be a lien or charge upon the land of the party against whom such judgment has been rendered, or any one claiming under him, in three years after such judgment has been registered, or within one year after the passing of this act, unless before the expiration of the said period of three years, or within one year after the passing of this act, such judgment shall be re-registered; and such lien or charge shall cease whenever the period of three years shall at any time be allowed to elapse without a further re-registry.

Registry of judgment may be discharged by certificate of judgment creditor.

XX. Any judgment registered against land shall and may be discharged from the registry of the county where the same is registered, on the production to the register of such county of a certificate signed by the judgment creditor, or, if more than one, by any one of them, his executors, administrators or assigns, to the following effect:

Form and proof of certificate.

“I do hereby certify that a judgment rendered in favour of A. B. against C. D., for the sum of £ , and registered in the registry office of the county of , has been discharged.”

And such certificate shall be proved to the register by the affidavit of one subscribing witness who has witnessed the execution of such certificate, which affidavit may be taken before any person before whom any affidavit for the registry of any deed or other instrument can be taken: provided always, that the registry of a judgment may also be discharged in the manner now provided by law.

ANALYTICAL INDEX.

ACT

- THIRTEENTH SECTION OF 12 Vic., c. 71, shall extend and be applied to any estate, right or title, or interest in lands which may be disposed of by deed under the 5th section of this act 14, 15 V. c. 7, s. 9.
- OF 9 Vic., c. 34., not to alter or render invalid any proceeding done under acts repealed thereby 9 V. c. 34, s. 2.
- THE 8TH, 9TH, & 10TH SECTIONS OF 16 Vic., c. 187, SEC. 12, shall take effect upon, from and after 1st January, 1854 only, (the act was passed 14th June, 1853)..... 16 V. c. 187, s. 12.
- COMMENCEMENT OF 18 Vic. c. 127, on the 1st July, 1855, and shall
Apply as well to judgments entered of record and bills filed, or proceedings had in Chancery before as after the passing of act 18 V. c. 127, s. 8.

ADMINISTRATOR

- OF MORTGAGEE (See "Executor") 14, 15 V. c. 7, s. 8.

AFFIDAVIT

- ONE OF WITNESSES TO deed or will executed out of limits of Upper Canada to make affidavit in order to registration, and what to contain.
Before whom to be taken
In Great Britain or Ireland.
In Lower Canada.
In any colony of the British Crown.
In any foreign country 9 V. c. 34, s. 10.

AFFIDAVIT *continued.*

- OF SUBSCRIBING WITNESSES TO VERIFY CERTIFICATE OF discharge of mortgage to be made
 OF EXECUTION OF deed, conveyance or will, or of any certificate of payment of mortgage money, executed, published or made in Lower Canada, oath to be administered by *Chief Justices* and judges of Q. B., and of the superior court in Lower Canada, and circuit judges there, and commissioner appointed by the superior courts of record in Upper Canada, for taking affidavits in Lower Canada 9 V. c. 34, s. 23.
- ON WHICH REGISTRAR IS TO REGISTER memorial of any deeds, conveyances, wills or probate as shall be made and executed or published in any place in Upper Canada other than the county in which the lands mentioned therein lie. 18, 14 V. c. 63, s. 5.
- To be sworn* before one of the judges of the superior courts of common law or equity in Upper Canada or the judge of any county court within his county, or a commissioner in the Queen's Bench or Common Pleas in Upper Canada.
- Made by one of the witnesses*, to the execution of such deed, &c., swearing to the execution of the deed, and of the memorial, and to the place where the same were executed, and *In the case of wills* by one of the witnesses to the memorial of such will, swearing to the execution of such memorial..... 16 V. c. 187, s. 6.
- ON WHICH REGISTRAR IS TO REGISTER memorial of deed, conveyance, will or power of attorney affecting or relating to lands in Upper Canada, executed or published without Upper Canada
- May be sworn* before any judge of either of the

AFFIDAVIT *continued.*

34, s. 23.

superior courts of common law or equity in Upper or Lower Canada, or before any judge of the county court in Upper Canada, or circuit court in Lower Canada, or a commissioner authorised to take affidavits in Upper Upper or Lower Canada by any of the superior courts of common law, or the registrar or deputy registrar of the county in which such lands are situate, wherein

One of the witnesses to the execution of such deed, conveyance, will, or power of attorney shall *Swear* to the execution of the same and also to the place where the same was executed.....

18 V. c. 127, s. 5.

c. 63, s. 5.

OF EXECUTION OF ASSIGNMENT OF claim in land, for registration by the Commissioner of Crown Lands, what to contain (See "Commissioner of Crown Lands").....

16 V. c. 159, s. 7.

COMMISSIONERS FOR TAKING, in superior courts of law either in Upper or Lower Canada shall have the same power and authority for *Administering oaths* in matters relating to the crown, clergy, and school lands as are exercised by justices of the peace.....

16 V. c. 159, s. 8.

TO PROVE CERTIFICATE OF DISCHARGE OF REGISTERED JUDGMENT to be made by

One subscribing witness, who has witnessed the execution of the certificate, which may be taken before any person before whom any affidavit for the registry of any deed or other instrument can be taken.....

20 V. c. 57, s. 20.

187, s. 6.

ASSIGNMENT

BY ORIGINAL NOMINEE, purchaser or locatee, as also any subsequent assignee of claim, on crown lands,

Commissioner of Crown Lands to register on production, and.

ASSIGNMENT *continued.*

- Affidavit of Execution, &c.* (See "Commissioner of Crown Lands") 16 V. c. 159, s. 7.
- DUTIES OF COMMISSIONER OF CROWN LANDS, under preceding section as to the registration of located claims, to extend to the registration of assignments of all claims heretofore located or located hereafter.
- All Assignments* of such locations in Lower Canada executed before notaries, or before one notary and two witnesses shall be deemed sufficient, and
- Shall be registered* accordingly.
- Unconditional*, all such assignments to be 16 V. c. 159, s. 8.

ATTORNEY

- OF PARTY ENTITLED TO MORTGAGE, may deliver certificate of discharge to registrar 9 V. c. 34, s. 23.

BARGAIN AND SALE

- REGISTRATION OF, not needed to supply place of enrolment for mere purpose of making it a valid conveyance for passing the land.
- Registration of*, in register county where lands are situate necessary to guard against subsequent purchaser obtaining title by prior registry 4-W. IV. c. 1, s. 47.

BILL

- OF FORECLOSURE BY MORTGAGEE, where judgment creditor need not be a party to 18 V. c. 127, s. 2.
- Filing of any Bill*, or taking any proceeding in Court of Chancery in Upper Canada in which
- Any title or interest in lands* may be brought into question shall
- Not be deemed notice* of such bill or proceeding, *Unless and until a Certificate* shall be given by the Registrar of the Court of Chancery to

BILL *continued.*

- 159, s. 7. some person demanding the same in the form mentioned in section and
Registered in the registry office of the county, &c., in which the lands are situate, the title or interest in which is questioned in such bill or proceeding.
Form of Certificate—"I certify that in a suit or proceeding in Chancery, between A. B. and C. D. some title or interest is called in question in the following lands, (stating them.)"
 159, s. 8. *No such Certificate* shall be required to be registered in any suit or proceeding for
Foreclosure of any registered mortgage..... 18 V. c. 127, s. 3.
 34, s. 23. FILED, OR PROCEEDINGS IN CHANCERY had as well before as after passing of act (1st July, 1855), act to apply to..... 18 V. c. 127, s. 8.
 OR OTHER PROCEEDING IN CHANCERY, where filed in the office of a deputy registrar of the said court, he may give a certificate thereof for registration under the 18 V. c. 127, and the registration of such certificate shall have the same effect as the registration of a like certificate by the registrar of the court 20 V. c. 56, s. 9.
 1, s. 47.

BOND

- 127, s. 2. CREATING DEBT TO THE CROWN, (See "Crown debts")..... 14 & 15 V. c. 9.
 CREATING CROWN DEBT, clerk of Queen's Bench, in Toronto, on production of copy certified by the proper officer having custody of same, to enter and register in separate book, which binds and charges lands from such registry. 14 & 15 V. c. 9, s. 2.
 CREATING CROWN DEBTS, and charging lands, the charges may be released by the Governor in Council, which release may be per-

BOND *continued.*

- fectured by registration of order with the clerk of the Queen's Bench, in Toronto..... 14 & 15 V. c. 9, s. 3.
- FEE OF FIVE SHILLINGS**, payable to clerk of Queen's Bench for registration of bond creating crown debts 14 & 15 V. c. 9, s. 4.
- CREATING CROWN DEBTS**, made before passing of act to Her Majesty or predecessors, of the nature mentioned in first section to be registered as in the second section mentioned, within one year from the passing of this act (2nd August, 1851), or in default, lands or interest in lands of the person who executed the same, discharged therefrom as to any subsequent purchaser or mortgagee, or registered judgment creditor of such person of the same lands for valuable consideration 14 & 15 V. c. 9, s. 5.

CERTIFICATE

- SUBSTITUTION OF**, for memorial of conveyance by sheriff, for non-payment of taxes (prior to 1851, see 16 Vic., c. 182, s. 66)..... 6 Geo. IV., c. 7, s. 19.
- REGISTRAR OR DEPUTY**, at time of entering memorial, to indorse on deed the certain day, hour and time when memorial entered and registered, and expressing in what book, page and number the same is entered.
- To be signed* by the registrar or his deputy when indorsed.
- To be taken and allowed as Evidence* of such respective registries in all courts of record. 9 V. c. 34, s. 8.
- REGISTRAR TO INDORSE CERTIFICATE** on deed, conveyance, will or probate, executed or published without the limits of Upper Canada, to have same effect as if the affidavit had been sworn before registrar or deputy.
- Judge or Commissioner* or other person, before

CERTIFICATE *continued.*

whom affidavit or affirmation of execution of deed, will, &c., out of limits of Upper Canada, was made or taken, to indorse certificate on deed, will, &c., identifying it as that referred to in affidavit or affirmation.....

9 V. c. 34, s. 10.

OF CHAIRMAN OF QUARTER SESSIONS, witnessed by clerk of peace, of proof before magistrates of due execution of deed, conveyance or will, the registrar thereon to record deed, &c., and

Certificate of Registrar, on recording such deed, &c., to be given, and to have like effect as certificate granted in all other cases.....

9 V. c. 34, s. 11.

OF JUDGMENT, clerk of court in which obtained to give to plaintiff, defendant or attorney, on payment of 2s. 6d. in form set out in section.

To be delivered to Registrar of county where lands, &c., lie, who, on receipt, is to record the same.

Form of Certificate, "In the court of (as the case may be), I hereby certify that judgment was entered up between A. B., plaintiff, and C. D., defendant, on the day of in a plea of for pounds debt (or damages), and pounds cost. E. F., clerk.".....

9 V. c. 34, s. 13.

OF DISCHARGE OF REGISTERED MORTGAGE, to be delivered to registrar prior to his entering "discharged" on register.

Person entitled to mortgage money, or attorney may make;

Form of, schedule A. to act,

To be filed, numbered and entered on the margin of the register, under the word "discharged".....

9 V. c. 34, s. 23.

c. 9, s. 3.

c. 9, s. 4.

J. c. 9, s. 5.

, c. 7, s. 19.

c. 34, s. 8.

CERTIFICATE *continued.*

OF PAYMENT OR PERFORMANCE OF CONDITION OF any mortgage by the mortgagee, his heirs, &c., heretofore given and registered under 35 Geo. III., c. 5, or, which having been given thereunder, may be registered under this act, or

Which may hereafter be given and registered under the provisions of this act, whether given or to be given, either before or after the time limited by such mortgage for payment or performance, is declared to be valid

As a Release of such mortgage, and as a *Re-conveyance* of the original estate of the *mortgagor*.

Proviso, if given after the expiration of the period within which the mortgagor had a right in equity to redeem, shall not have the effect of defeating any title other than a title remaining vested in the *mortgagor*, or his heirs, &c.

9 V. c. 34, s. 24.

THE WORD "MORTGAGOR" has been substituted for "mortgagee," in the last line of the proviso, at the end of section 24 of 9 V. c. 34, in error.

Section 24 of 9 V. c. 34, was intended to refer and does refer to any certificate by the mortgagee, his heirs, executors, administrators or assigns, of payment or performance of the condition of any mortgage, given or registered as therein mentioned.....

10, 11 V. c. 16, s. 1.

TRUE EFFECT of *proviso* at the end of the 24th section of 9 Geo. IV., c. 34, declared to be "that such certificate as is mentioned in the said section and in this act, if given after the expiration of the period within

CERTIFICATE *continued.*

which the mortgagor had a right in equity to redeem, shall have had and shall have the effect of defeating any title remaining vested in the mortgagee, or his heirs, executors, administrators or assigns, but shall not have had nor shall have the effect of defeating any other title whatsoever"..... 10, 11 V. c. 16, s. 2.

OF PAYMENT AND SATISFACTION OF MORTGAGE MONEY, in form schedule A. to act.

Purchaser of mortgagor's interest in real estate under execution, may, on payment of mortgage money,

Require the Mortgagee, his heirs or assigns, to give him, and

Registrars to act on certificate to the same extent as if the same had been given by the mortgagor, his heirs, &c..... 12 V. c. 73, s. 2.

Of Judgment, so soon as registered, the judgment becomes a charge on lands in county where registered after 1st January 1851 ... 13, 14 V. c. 63, s. 2.

OF JUDGMENT REGISTERED by judgment creditor *Before the Registering* of the memorial of a deed, devise or conveyance, executed after January 1st, 1851, after any grant from the Crown of any lands and deed patent issued, makes such deed, devise or conveyance,

Fraudulent and void against

Judgment Creditor, who shall have registered such certificate.

Devises subject to provisions as to, in 12th section of 9 V. c. 34.

Equitable Mortgagees, rights of, as recognised in Court of Chancery, not to be affected..... 13, 14 V. c. 63, s. 3.

REGISTERED, OF JUDGMENT RECOVERED after January 1st, 1851, the judgment to be good &c., at law and equity according to the

s. 24.

16, s. 1.

CERTIFICATE *continued.*

- priority of the time of registration of the certificate 13, 14 V. c. 63, s. 4.
- EXECUTED IN LOWER CANADA, of payment of mortgage money, before whom affidavit of execution may be made 13, 14 V. c. 63, s. 5.
- OF JUDGMENT, REGISTRATION OF, deemed and taken to be a registry of such judgment for the purpose of act..... 13, 14 V. c. 63, s. 7.
- OF JUDGMENT, registrar to keep separate books for entry of, after passing of act 10th April, 1850 13, 14 V. c. 63, s. 9.
- OF PROPER OFFICER, having custody of deed, bond, contract or instrument, creating crown debt to be given with copy of deed, &c., handed to clerk of Queen's Bench in Toronto for registration 14, 15 V. c. 9, 2.
- OF PRESIDENT, OR CLERK OF EXECUTIVE COUNCIL, to accompany order of Governor for the release of lands from the charge of crown debts, created by any deed, &c..... 14, 15 V. c. 9, s. 3.
- SHERIFF giving deed of land on sale for non-payment of taxes to give to purchaser
- A *Certificate* of the execution of the deed containing the date and cause of the sale and the price, and a description of the land by its situation, boundaries and quantity
- Under his Hand and Seal*, which for the purpose of
- Registration* of the deed in the registry office of the proper county, shall be deemed
- A *memorial* thereof, and the deed shall be registered, and
- Certificate of Registry* thereof be granted by the registrar, on production to him of the deed and certificate, and without further proof and

CERTIFICATE *continued.*

- 63, s. 4. Registrar shall for the registry and certificate thereof be entitled to 3s. 6d., and no more.. 16 V. c. 182, s. 65.
- 63, s. 5. OF REGISTRY, one only to be charged for where deed, &c., embraces different lots of land in different localities in the same county 16 V. c. 187, s. 5.
- 63, s. 7. REGISTRAR TO GIVE OF THE REGISTERING of deeds, conveyances, wills or probate, as shall be made and executed or published in any place within Upper Canada, other than the county in which the lands mentioned therein lie
- 63, s. 9. *After Production of Affidavit* to him, sworn by one of the witnesses to the deed, and one of the witnesses to the memorial of a will
- V. c. 9, 2. *To be Evidence of the Registry* of the same in all courts of record in Upper Canada, notwithstanding any thing in 9 V. c. 34 16 V. c. 187, s. 6.
- c. 9, s. 3. REGISTRAR OF COURT OF CHANCERY to give certificate to some person demanding the same.
- Of Bill Filed* or proceeding taken in Chancery in which
- Any title or Interest in Lands* may be brought in question,
- To be Registered* before the filing of the bill, &c., deemed notice.
- Form of*—"I certify that in a suit or proceeding in Chancery between A. B. and C. D., some title or interest is called in question in the following lands (stating them.)"
- Registration of such Certificate*, (from registrar of the Court of Chancery) not required in any suit or proceeding for foreclosure of any registered mortgage 18 V. c. 127, s. 3.
- OF REGISTRAR OF COURT OF CHANCERY, stating the substance and effect of any decree affecting the title of lands, to contain the

CERTIFICATE *continued.*

- substance and effect of the decree, and the lands affected thereby, upon which it shall and may be registered in county registry office of the county where the lands, the title of which is affected, are situate.....: 18 V. c. 127, s. 4.
- OF JUDGMENT given by deputy clerk of the Crown.
May be Registered in the registry office of any county of Upper Canada, and shall have the like force and effect in binding or operating as
A charge upon lands, tenements and hereditaments, situated within such county as if the certificate had been granted at the principal office at Toronto 19 V. c. 43, s. 15.
- OF JUDGMENT ENTERED in either of the county courts.
Clerk of County Court, may give to the party on whose behalf it is entered, or to his legal representative
A Certificate signed by him of such judgment containing the like particulars as are required in certificates of judgments given by the clerks of the crown and pleas, and such certificate
May be Registered in the registry office of any county in Upper Canada, and the same
Certificate and Registration thereof shall have the like force and effect in binding or operating as a
Charge on Lands, &c., situate within such county as if the certificate had been granted by a clerk or deputy clerk of the crown 19, 20 V. c. 90, s. 7.
- OF DISCHARGE OF REGISTERED JUDGMENT, signed by the judgment creditor or if more than one, by any one of them, his executors, administrators or assigns,

CE

CH

CERTIFICATE *continued.*

To be Proved to the registrar by the affidavit of one subscribing witness who has witnessed the execution of the certificate..... 20 V. c. 57, s. 20.

OF BILL OR OTHER PROCEEDING IN CHANCERY, the deputy registrar of the court where same is filed in his office, may give, under 18 V. c. 127; and the registration of such certificate shall have the same effect as the registration of a like certificate by the registrar of the said court 20 V. c. 56, s. 9.

OF DECREE OR ORDER IN CHANCERY by the registrar or deputy registrar of the Court of Chancery, may be registered in any county registry office, on delivery to the county registrar.

County Registrar to enter and record in the same books and in the same manner as judgments at law 20 V. c. 56, s. 10.

OF DECREE OR ORDER IN CHANCERY by registrar or deputy registrar of the court, to state any restriction in decree, &c., of charge created, to part of lands of person liable, and may be registered by either party 20 V. c. 56, s. 11.

CHANCERY

JUDGMENT CREDITOR'S remedies in equity, the same as he would be entitled to, in case the judgment debtor had power to charge the hereditaments, and had, by writing under his hand, agreed to charge them with judgment debt and interest 13 & 14 V. c. 63, s. 2.

BILL FILED, or any proceedings taken in Chancery in which any title or interest in lands may be brought in question, not to be deemed notice of such bill or proceeding, unless and until certificate given by the registrar of the

. 127, s. 4.

c. 43, s. 15.

V. c. 90, s. 7.

CHANCERY *continued.*

court in the form mentioned in the section, and registered in the registry office of the county where the lands are situate, the title of which is questioned therein.

Form of Certificate to be given by registrar of court, "I certify that in a suit or proceeding in Chancery between A. B. and C. D., some title or interest is called in question in the following lands (stating them)."

18 V. c. 127, s. 3.

EVERY DECREE OF FORECLOSURE, and every other decree in Chancery affecting any title or interest in land,

Shall and may be Registered by any person in the county registry office in the county where the land is situate,

On a Certificate to be given by the registrar of the said court, stating the substance and effect of such decree, and the lands affected thereby.....

18 V. c. 127, s. 4

BILLS FILED, or proceedings had in, before as well as after passing of act (1st July, 1855), act to apply to

18 V. c. 127, s. 8

DEPUTY REGISTRAR OF COURT OF, when bill or other proceeding in Chancery filed in his office, authorised to give certificate thereof for registration under 18 V. c. 127, and the registration thereof to have the same effect as the registration of the certificate of the Registrar of the Court

20 V. c. 56, s. 9.

EVERY DECREE OR ORDER of the court which has already been, or shall hereafter be made, whereby any sum of money, or any costs, charges or expenses shall be ordered to be paid, either at one time or in several or periodical payments or sums, to any person or persons, or into the said court, or to-the

CHANCERY *continued.*

credit of any cause in the said Court, or otherwise,

May be Registered in any county register office, upon

Delivery to the County Registrar of a

Certificate of the registrar, or of a deputy registrar of the said court, stating the title of the cause or matter in which such decree or order shall have been made, and the date of the decree or order, and the amount of the moneys thereby or by any report made in pursuance thereof mentioned to be paid; and

The County Registrar shall enter and record such certificate in the same books and

In the same manner as certificates of judgments at law are now entered and recorded; and

The Registry of any such certificate shall have to all intents and purposes

The same effect as the registry of a judgment at law now has, and

May be discharged in the same manner as a judgment at common law

20 V. c. 56, s. 10.

COURT MAY DIRECT, either in the same decree or order, or by a subsequent decree or order, that

The Charge created by such Decree, &c., be confined to some specified part of the real estate of the person liable, and that

The residue of the Real Estate shall be unaffected by such registration; and in case such restriction is contained in the original decree or order,

The Certificate shall state the same; and if such restriction is contained in some subsequent order,

The Certificate thereof may be registered by either party.....

20 V. c. 56, s. 11.

127, s. 3.

127, s. 4

127, s. 8

c. 56, s. 9.

CHANCERY *continued.*

DECREE OR ORDER, for the payment of money
when made, and

*So Registered, as to become a charge on real
estate*

*Court may order, in any proceedings in the
same cause, the whole or any part of the*

*Real estate Bound to be Sold for the satisfaction
of the money so charged upon it, with
interest and costs*

20 V. c. 56, s. 12.

CHARGE

JUDGMENT REGISTERED, CEASES TO BE a lien or
charge on lands of the party against whom
rendered, or any one claiming under him

*In three years from registration, or one year
from passing of act, unless re-registered,
(see " Re-registration ").....*

20 V. c. 57, s. 19.

CLERK OF COUNTY COURT

WHO ENTERS UP ANY JUDGMENT in either of
the said (county) courts, may give to the
party on whose behalf it is entered, or to
his legal representative,

*A Certificate, signed by him, of such judgment,
containing the like particulars as are re-
quired in certificates of judgments given by
the clerks of the Crown and Pleas, and
such certificate*

*May be Registered in the registry office of any
county in Upper Canada, and the same*

*Certificate and the Registration thereof shall
have the like force and effect in binding or
operating as*

*A Charge on Lands, &c., situate within such
county, as if the certificate had been granted
by a clerk or deputy clerk of the Crown... 19 & 20 V. c. 90, s. 7*

CLERK OF PEACE

- To FORWARD TO GOVERNOR a copy of presentment of grand jury, of registrar's not keeping his office at place appointed, &c 9 V. c. 34, s. 19.
- To FORWARD TO GOVERNOR a copy of the presentment of grand jury of registrar's non-residence in county, or incapacity from sickness to do duties of office..... 9 V. c. 34, s. 20.

c. 56, s. 12.

CLERK OF QUEEN'S BENCH

- CROWN DEBTS to be registered in office of, in Toronto.....14 & 15 V. c. 9, s. 1.
- REQUIRED, on production of a copy deed, bond, contract, or other instrument (under seal or of record, whereby any debt, obligation, or duty shall be incurred or created to Her Majesty)
- Certified* by the proper officer having the custody of the same
- To Enter and Register* same in a separate book, and
- From and after* such registry,
- All the Lands* of the person executing such deed, contract, or other instrument,
- Shall be Bound* and charged thereby 14 & 15 V. c. 9, s. 2.
- ON PRODUCTION OF ORDER of the Governor in Council, certified by the president or clerk of the Executive Council,
- For the Release of lands* bound by such deed, &c., with crown debts, from such charge,
- To Enter and Register* the same in the same book, as a release of such lands mentioned in the order, and
- Thereupon such lands shall be released* accordingly.
- Fee of Five Shillings*, may demand and receive from person producing, for registry, any

c. 57, s. 19.

V. c. 90, s. 7

CLERK OF QUEEN'S BENCH *continued.*

such deed, bond, contract, or other instrument, or release, to be paid to the fee fund... 14 & 15 V. c. 9, s. 3.

COMMISSIONER OF CROWN LANDS

To KEEP A BOOK FOR THE ENTRY, at the option of the parties interested,

Of the particulars of any Assignments made, as well

By the original Nominee, Purchaser, or Locatee,
- as also

By any subsequent Assignee or assignees, of any such

Claim on Lands heretofore located (14th June, 1853), or hereafter purchased in respect thereof,

Such Assignment, &c., being first produced or exhibited to the Commissioner, together

With an Affidavit of the due execution thereof, sworn before a J. P., which shall truly express the time of the execution of such assignments, and thereupon the Commissioner

To Enter or Register the material parts of every such assignment, and

To Endorse a Certificate of the entry or registration on every such assignment:

Such Assignment so entered or registered, shall be valued against any one of a previous date or execution, but not then entered or registered.

Such Assignments being duly registered, it shall be lawful that

The Patent issue in the name of such assignee or assignees.

Subscribing Witness to any such assignment being deceased, or having left the Province,

COMMISSIONER OF CROWN LANDS *continued.*

Registration of such assignment to be made on the production of

An Affidavit proving the death or absence of such witness and his hand-writing

16 V. c. 159, s. 7.

DUTIES OF, under the preceding section, for the registration of assignments of located claims, *To extend to the Registration of assignments of claims heretofore located or located hereafter.*

All Assignments of such locations in Lower Canada executed before Notaries, or before one Notary and two witnesses, shall be deemed sufficient, and

Shall be Registered accordingly.

Unconditional, all such assignments to be.

Commissioners for taking Affidavits in superior courts of law, either in Upper or Lower Canada, shall have the same power and authority for

Administering Oaths in matters relating to the crown, clergy, and school lands, as are now exercised by Justices of the Peace.....

16 V. c. 159, s. 8.

TO TRANSMIT TO REGISTRAR of every county or registration district, in January in each year,

A List of the Clergy and Crown Lands heretofore or hereafter sold, or for which licenses of occupation shall be granted in such county or registration district, and upon which a payment has been made ;

Which said Crown, Clergy, and School Lands shall be liable to the

Assessed Taxes in the townships in which they respectively lie, from the date of such license or sale ; and

The Commissioner shall in like manner apprise such registrar of the cancellation of any license of occupation or patent

16 V. c. 159, s. 24.

CONTRACT

- CREATING CROWN DEBT, clerk of Queen's Bench, in Toronto, on production of copy, certified by the proper officer having custody of same, to enter and register in separate book, which binds and charges lands from registry 14 & 15 V. c. 9, s. 2.
- CREATING CROWN DEBT, and charging lands, the charge may be released by the Governor in Council, which release may be perfected by registration of order with the clerk of the Queen's Bench, in Toronto..... 14 & 15 V. c. 9, s. 3.
- FEE OF FIVE SHILLINGS, payable to clerk of Queen's Bench, for registration of contract creating crown debts 14 & 15 V. c. 9, s. 4.
- CREATING CROWN DEBTS, made before the passing of this act, to Her Majesty or predecessors, of the nature mentioned in first section to be registered as in the second section mentioned, within one year from the passing of this act (2nd August, 1851), or, in default, lands or interest in lands of the person who executed the same, discharged therefrom as to any subsequent purchaser, or mortgagee, or registered judgment creditor of such person of the same lands, for valuable consideration 14 & 15 V. c. 9, s. 5.

CONVEYANCE

- OF LEGAL ESTATE IN LAND MORTGAGED, executor or administrator of deceased mortgagee, entitled to the mortgage money, may, on payment of principal and interest, or if paid to testator, or intestate in lifetime, convey, release, and discharge debt and convey legal estate in land, and such *Executor or Administrator* shall have same

CONVEYANCE *continued.*

power as to any portion of the lands, on payment of some part of mortgage debt, or on any arrangement for exonerating the whole or part of land without payment.

Such Conveyance, Release or Discharge shall be as effectual as if made by person having the legal estate

9, s. 2.

14 & 15 V. c. 7, s. 8

CORPORATION

SEAL OF, affixed to any, deed, conveyance, memorial, or instrument in writing, to be sufficient evidence of the due execution of such deed, &c., by such corporation, for the purpose of registry

9, s. 3.

9 V. c. 34, s. 29.

9, s. 4.

COST

OF REGISTER BOOKS, municipality of county to pay the registrar when county treasurer neglects or refuses to supply him with books

16 V. c. 187, s. 3.

COUNTY

EVERY, IN UPPER CANADA, registrar to be appointed for, who shall keep an office in the same, at the place named in his commission, or at such other place as may be appointed by proclamation, according to this act

9, s. 5.

9 V. c. 34, s. 4.

PORTION OF, SEPARATED, or set apart so as to form another county, or a part thereof, registrar of first mentioned county to furnish a statement of the registration of such titles as may have been registered, of lands lying in the part so separated, to the registrar, of the new county and of the county of which it shall form a part, setting forth the dates of the deeds and the particulars of the lots or parcels of lands to which they relate.....

9 V. c. 34, s. 32.

COUNTY *continued.*

REGISTRARS NOT TO BE APPOINTED for the counties of Lennox, Addington, Prescott, Russell, Lincoln and Welland.

One Registrar to be appointed for counties of Lennox and Addington.

One Registrar to be appointed for counties of Prescott and Russell.

One Registrar to be appointed for counties of Lincoln and Welland.

Governor-General, in the event of vacancy in office of registrar for said united counties, may, in his discretion, divide said counties in which any such vacancy may happen, and appoint a registrar for each county respectively

9 V. c. 34, s. 34.

REGISTRAR OF OLD COUNTY, on separation, entitled to receive from, and to be paid by new county, the sum of one shilling and three pence for every folio of 100 words contained in any such statement of the registration of the titles of lands lying in the part separated 14 & 15 V. c. 5, s. 17.

WHERE CITY, TOWN, &c., DETACHED from and attached to or become part of another county, where a separate registry office is or shall be kept,

The Registry Book or books kept for such city, town, &c., under 22nd section 9 V. c. 34,

And all plans or maps of town or village lots in such city, town, &c., lodged in the office of the registrar pursuant to the 33rd section of 9 V. c. 34,

Shall be delivered by the registrar of the county from which such city, town, &c., is or shall be detached,

To the Registrar of the county to which the same is or shall be attached, or of which it shall become part.

COUNTY *continued.*

To be kept by him among the registry books of his office 16 V. c. 187, s. 1.

STATEMENT OF SUCH TITLES of, or relating to lands lying in such city, town, &c., as may have been registered before separate registry books were kept for each township or place, under authority of the said act,

Shall be furnished by the registrar of the county from which such township or place shall have been detached,

To the Registrar of the county to which the same shall have been attached, or of which it shall become part, in the manner provided by the 32nd section of the 9 V. c. 34.

Provisions of this section shall apply to *Each and every city, town, township, or place In any new county, and*

In any county which being theretofore united with another county or counties for the purpose of registration of titles,

Shall be detached therefrom for such purposes, and become entitled to have

A separate registry office 16 V. c. 187, s. 1.

TREASURER OF, to supply registrar with registry books after passing of act (14 June, 1853), on application from him.

Treasurer Refusing or neglecting to supply within thirty days after application, the registrar may provide the same, and recover the cost from the municipality of the county 16 V. c. 187, s. 3.

EACH, IN UPPER CANADA, now entitled to return a Member or members of the Legislative Assembly to parliament shall be

Entitled to have a Separate Registry Office for the registrar of titles, and

c. 34, s. 34.

c. 5, s. 17.

COUNTY *continued.*

Registrars shall be Appointed accordingly, but
Until the Establishment of such Separate regis-
 try offices as may be established under this
 act,

All Deeds, Wills, Memorials, or other instruments
 may be

Registered in the same Offices, and with the same
 effect, as if this act had not been passed ...

16 V. c. 187, s. 4.

WHEN A DEED, &c. relates to lands in several
 - localities in the same county, only one
 memorial need be filed.....

16 V. c. 187, s. 5.

INTERPRETATION OF the word "County"

16 V. c. 187, s. 5.

COUNTY COURTS.

CLERK OF, entering up judgments in, may give
Certificates Signed by him of such judgment
 containing the like particulars as are required
 in certificates of judgments given by the
 clerks of the crown and pleas, and such
 certificate

May be Registered in the registry office of any
 county in Upper Canada, and the same

Certificate and Registration shall have the like
 force and effect in binding or operating as a

Charge on Lands, &c., situate within such county
 as if the certificate had been granted by a

clerk or deputy clerk of the crown 19, 20 V. c. 90, s. 7.

CROWN LANDS

CONFIRMATION OF GRANT OF any lands from
 Crown to precede the registration of deeds
 and wills

9 V. c. 34, s. 6.

AFTER GRANT FROM, AND DEED PATENT ISSUED,
 every deed, devise, or other conveyance exe-
 cuted after January 1st, 1851, to be fraudu-
 lent and void, not only against subsequent

CROWN LANDS *continued.*

purchasers, &c., but also against a subsequent judgment creditor, who shall have registered a certificate of his judgment unless memorial be registered under 9 V. c. 34, before the registering of memorial of the deed or certificate of judgment under which subsequent purchaser, &c., or judgment creditor claims

13, 14 V. c. 63, s. 3.

REGISTRATION BY COMMISSIONER of assignments by the original nominee, purchaser, or locatee and subsequent assignee of any claim on lands heretofore located (14 June 1853), or hereafter purchased, how and on what evidence effected, (see "Commissioner of Crown Lands")

16 V. c. 159, s. 7.

DUTIES OF COMMISSIONER of Crown Lands to extend to the registration of assignments of all claims heretofore located or located hereafter.

Unconditional, all such assignments to be
COMMISSIONER OF, to transmit to registrar of every county or registration district, in January in every year,

16 V. c. 159, s. 8.

A List of the Clergy and Crown Lands heretofore or hereafter sold, or for which licenses of occupation shall be granted in such county or registration district, and upon which a payment has been made,

Which said Crown, Clergy and School Lands shall be liable to the

Assessed Taxes in the townships in which they respectively lie, from the date of such license or sale, and

The Commissioner shall in like manner apprise such registrar of the cancellation of any license of occupation or patent

16 V. c. 159, s. 24.

. 187, s. 4.

. 187, s. 5.

. 187, s. 5.

. c. 90, s. 7.

. c. 34, s. 6.

CROWN DEBTS

NO DEED, BOND, CONTRACT, or other instrument,
under seal or of record,

Whereby any Debt, obligation or duty shall be
incurred or created to

Her Majesty the Queen or her successors, shall
be

*Deemed valid or sufficient to charge or affect
any lands*, or any interest in lands of the
person, &c., executing the same, or affected
thereby

As against any Subsequent Purchaser or mort-
gagee, for valuable consideration of the
same lands,

Unless a Copy of such Deed, bond, contract, or
other instrument,

Certified by the proper officer having the cus-
tody of the same,

Shall be Registered in the office of the clerk of
the court of Queen's Bench, in Toronto,

Before the Execution of the Deed, conveyance, or
agreement of such subsequent purchaser, or
mortgagee, or

The Registry of such subsequent judgment 14, 15 V. c. 9, s. 1.

GOVERNOR IN COUNCIL may release charge of,
on lands, and the order thereon to be regis-
tered with the clerk of the Queen's Bench 14, 15 V. c. 9, s. 3.

DEATH

OF REGISTRAR OR SURRENDER OF OFFICE, re-
cognizance given by, void at end of one year
after, when no misbehaviour appears to have
been committed by him in execution of
office.....

9 V. c. 34, s. 28.

DECLARATION

ONE OF WITNESSES TO DEED OR WILL executed

DECLARATION *continued.*

ent of limits of Upper Canada, to make, in order to registration, (where by law a declaration is substituted for an affidavit), and what to contain.

Before whom to be taken,

In Great Britain or Ireland,

In Lower Canada,

In any colony of the British Crown,

In any foreign country

9 V. c. 34, s. 10.

PERSON, &c., SUB-DIVIDING LAND into town and village lots to make, to accompany plan lodged with registrar, and what to contain.

Corporation or Company, agent or attorney of, may make

9 V. c. 34, s. 33.

DECREE

OF FORDCLOSURE, and every other decree in Chancery affecting any title or interest in land,

Shall and may be registered by any person in the county registry office in the county where the land is situate,

c. 9, s. 1.

On a Certificate, to be given by the registrar of the court, stating the substance and effect of such decree, and the lands affected thereby

18 V. c. 127, s. 4.

c. 9, s. 3.

OR ORDER IN CHANCERY, registration and discharge of, (see "Chancery")

20 V. c. 56, s. 10.

OR ORDER IN CHANCERY, restriction of charge created by, to part of lands, (see "Chancery")

20 V. c. 56, s. 11.

34, s. 28.

OR ORDER IN CHANCERY, for payment of money, registered to bind lands, court may, in any proceedings in the same cause, direct the whole or any part of the lands bound to be sold for the satisfaction of the money so charged on, with interest and costs

20 V. c. 56, s. 12.

DEED

- INTEREST IN LAND, a contingent, an executory and a future interest, and a possibility, coupled with an interest, in any tenements or hereditaments of any tenure, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, *Also a Right of Entry*, whether immediate or future, and whether vested or contingent with or upon any tenements or hereditaments of any tenure, may be disposed of by deed. 14, 15 V. c. 7, s. 5.
- OF REAL ESTATE, made and executed by, or in favour of the corporation named "The Connexional Society of the Wesleyan Methodist Church in Canada," (except leases for a term not exceeding nine years,) *Shall be duly Registered* within twelve calendar months after the making and execution thereof, otherwise void and of no effect..... 14, 15 V. c. 142, s. 5.
- OF WHICH A MEMORIAL MAY BE REGISTERED at election of party or parties concerned. *Of which a Memorial must be Registered*, or adjudged fraudulent and void against a subsequent purchaser or mortgagee for valuable consideration, whose deed is first registered 9 V. c. 34, s. 6.
- TO BE PRODUCED TO REGISTRAR at time of entering memorial 9 V. c. 34, s. 8.
- MEMORIAL OF, EXECUTED WITHOUT THE LIMITS OF UPPER CANADA, to be registered upon production of certain evidence 9 V. c. 34, s. 10.
- EXECUTED AFTER JANUARY 1ST, 1851, when to be adjudged fraudulent and void against judgment creditors, as well as against subsequent purchasers, &c 13, 14 V. c. 63, s. 3.
- EXECUTED AFTER JANUARY 1ST, 1851, of which a memorial shall be registered, deemed good in law and equity,

DEED

A
W
A
E
R
V
S
C
U
E
C
C
F
C

DEED *continued.*

According to the priority of the time of registering the memorial.

When no Memorial of such deeds, &c., registered, then

According to the priority of time of execution... 13, 14 V. c. 63, s. 4.

EXECUTED IN LOWER CANADA, before whom affidavit of execution may be made 13, 14 V. c. 63, s. 5.

REGISTERED under 9 V. c. 34, or under this act, affecting any lands, registry to be

Notice in Equity to all persons claiming any interest in such lands or tenements,

Subsequent to such registry 13, 14 V. c. 63, s. 8.

CREATING DEBT TO THE CROWN, (see "Crown debts")..... 14, 15 V. c. 9.

UNDER WHICH SUBSEQUENT PURCHASER or mortgagee, for valuable consideration, claims.

Executed before Registration in Queen's Bench, Toronto, of deed, &c., under which Crown debt is created,

Crown Debt security not deemed valid and effectual against 14, 15 V. c. 9, s. 1.

CREATING CROWN DEBT, clerk of Queen's Bench, in Toronto, on production of copy, certified by the proper office having custody of the same, to enter and register in separate book, which binds and charges lands from such registry 14, 15 V. c. 9, s. 2

CREATING CROWN DEBTS and charging lands, the charge may be released by the Governor in Council, which release may be perfected by registration of order with the clerk of Queen's Bench, in Toronto..... 14, 15 V. c. 9, s. 3.

FEE OF FIVE SHILLINGS, payable to clerk of Queen's Bench, for registration of, creating or releasing Crown debts 14, 15 V. c. 9, s. 4.

CREATING CROWN DEBTS, made before passing

. 7, s. 5.

142, s. 5.

34, s. 6.

34, s. 8.

34, s. 10.

63, s. 3.

DEED *continued.*

of act to Her Majesty or predecessors, of nature mentioned in first section, to be registered as in the second section mentioned, within one year from the passing of this act, (2nd August, 1851,) or in default, lands or interest in lands of the person who executed the same, discharged therefrom as to any subsequent purchaser or mortgagee, or registered judgment creditor of such person of the same lands, for valuable consideration...

14, 15 V. c. 9, s. 5.

By SHERIFF, OF LAND SOLD FOR TAXES before 1st January, 1851, to be registered by registrar according to act 6 Geo. IV., c. 7, notwithstanding its repeal by 13 & 14 V. c. 66.....

16 V. c. 182, s. 66.

REGISTRATION OF, EMBRACING DIFFERENT LOTS or parcels of land situate in different localities in the same county,

One Memorial only is necessary to be copied in the registry book for the city, &c., to the same extent only as if a separate memorial had been furnished in relation to the lands in such city, &c

16 V. c. 187, s. 5.

REGISTRATION OF, repeal of 9th section of 9 V. c. 34.

Memorial of such deed made and executed in any place within Upper Canada other than the county in which the lands mentioned therein lie, to be registered.

On production of Affidavit to registrar by one of the witnesses of the execution of the deed and memorial, and the place where executed

16 V. c. 187, s. 6.

MEMORIAL OF, affecting lands in Upper Canada, but executed without Upper Canada, on what evidence to be registered

18 V. c. 127, s. 5.

OF CONVEYANCE TO TRUSTEES OF CERTAIN RE-

DEED

OF

T

TR

H

V

A

E

P

T

T

DEED *continued.*

RELIGIOUS SOCIETIES, of land for the site of a church, meeting house, chapel or burying ground, made before passing of act, (25th March, 1828,) to be good and valid if already registered, or hereafter registered within twelve months after the passing of this act..... 9 Geo. IV. c. 2, s. 4.

OF CONVEYANCE OF LAND for the site of a church, chapel, meeting house, burial ground and residence for their minister, may be made to

The Trustees of any Religious Society or congregation of Christians and their successors, in perpetual succession 8 V. c. 15, s. 1.

TRUSTEES OF ANY RELIGIOUS SOCIETY or congregation of Christians, within twelve months after its execution, to register it in the office of the registrar of the county where the land is situate

8 V. c. 15, s. 2.

HERETOFORE EXECUTED (to religious societies), for any of the uses, interests, or purposes of either of acts 9 Geo. IV., c. 2, and 8 Vic., c. 15, shall be as

Valid and effectual, if the same be Registered within twelve months after the passing of this act (30th August, 1849),

As if the same had been Registered within the time limited, by either of the said acts,

Except in so far as they may be affected by the *Prior Registration* of other deeds or instruments relating to the same lands

12 V. c. 91, s. 1.

To TRUSTEES OF RELIGIOUS SOCIETY, omission to register by the trustees in due time,

This Act shall not extend to render invalid any right or title to such estate on account of such omission, but

DEED *continued.*

- Such right or title* shall be taken and adjudged to be as if this act had not been passed..... 16 V. c. 126, s. 1.
- REGISTRATION OF, ON SHERIEF'S SALE of land for non-payment of taxes, (see "Taxes,")... 16 V. c. 182, s. 65.
- REGISTRATION OF SHERIFF'S DEED, sale of land for non-payment of taxes, before 1st January, 1851, to be under 6 Geo. IV., c. 7, notwithstanding repeal of that act by 13 & 14 Vic., c. 66 16 V. c. 182, s. 66.

DEVISE

- REGISTRATION of memorial of, in will, (see "Wills")..... 9 V. c. 34, s. 6.
- EXECUTED AFTER JANUARY 1ST, 1851, when adjudged fraudulent and void against judgment creditors, as well as against subsequent purchasers, &c 13, 14 V. c. 63, s. 3.

DEVISEE

- MAY REGISTER WILL OR PROBATE within twelve months from death of devisor, &c.
- Extension of time* allowed to record will or probate, where contested, or other inevitable difficulty arises without his wilful neglect, &c., to within twelve months after will, &c., attained, or removal of the impediment..... 9 V. c. 34, s. 12.
- PROVISIONS AS TO, under 12 section of 9 V. c. 34, judgment creditors, &c., bound by... 13, 14 V. c. 63, s. 3.

DEPUTY CLERK OF CROWN

- CERTIFICATE, signed by him, may give to the party on whose behalf judgment is entered, or to his legal representative,
- Of Judgment entered*, which may be registered in the registry office of any county in Upper Canada 19 V. c. 43, s. 15.

DISCHARGE

- 26, s. 1. OF REGISTERED MORTGAGE to be entered by registrar as "discharged," on receipt of certificate in form schedule A. to act..... 9 V. c. 34, s. 28.
- 2, s. 65. CERTIFICATE of, by mortgagee, of payment, &c., under 35 Geo. III., c. 5, and of discharge under this act to operate as a reconveyance and release 9 V. c. 34, s. 24.
- 2, s. 66. EXECUTOR OR ADMINISTRATOR of deceased mortgagee, when entitled to the
Money secured by the Mortgage, &c., shall have power,
On Payment of the principal money and interest due on the mortgage, or if the mortgage money shall have been paid to the testator or intestate in his lifetime, to convey release and
Discharge the said Mortgage debt and the legal estate in the land, and such executor or administrator shall also have
The same power as to any portion of the land, on Payment of some part of the mortgage debt, or on any
Arrangement for exonerating the whole or part of the mortgaged lands without payment of money, and such conveyance, release and
Discharge shall be as effectual as if the same had been made by any person having the legal estate 14, 15 V. c. 7, s. 8.
- 34, s. 6. OF REGISTERED JUDGMENT against land may be discharged from registry of the county where the same is registered, on the
Production to the Registrar of the county of a Certificate signed by the judgment creditor, or if more than one, by any one of them, his executors, administrators or assigns, to the effect of the form given in the section,
- 63, s. 3.
- 34, s. 12.
- 63, s. 3.
- 43, s. 15.

DISCHARGE *continued.*

Such Certificate to be proved to the registrar by Affidavit of one subscribing witness thereto.

Proviso, that discharge of registry of judgment may be in the manner now provided by law 20 V. c. 57, s. 20.

ENROLLMENT

OF BARGAIN AND SALE, not needed for mere purpose of making it a valid conveyance for passing the lands..... 4 W. IV. c. 1. s. 47.

EQUITY OF REDEMPTION

MORTGAGEE OR HIS ASSIGNEE may take from mortgagor or his assignee,

Release of, or may purchase the same under any power of sale in his mortgage, or any judgment or decree,

Without thereby merging the mortgage debt as against any subsequent mortgagee or

Registered Judgment Creditor of the same property 14, 15 V. c. 45, s. 1.

PRIOR MORTGAGEE OR HIS ASSIGNEE, who shall take a release of the equity of redemption of the mortgagor or his assignee, or who shall purchase the same under any power of sale in his mortgage, or any judgment or decree,

No subsequent Mortgagee or his assignee, and No registered Judgment Creditor shall be entitled to

Foreclose or sell such property,

Without redeeming or selling, subject to such prior mortgagee or assignee in the same manner as if such prior mortgagee or his assignee had not taken, received, or purchased such equity of redemption 14, 15 V. c. 45, . 2.

EVIDENCE

REQUIRED *antecedent to Registration* of deed, conveyance or will 9 V. c. 84, s. 7.

SEAL OF CORPORATION to any deed, &c., to be sufficient evidence of the due execution of the deed, &c., by such corporation, for the purpose of registry 9 V. c. 84, s. 29.

COPY OF PLAN OR MAP of town or village obtained from registry office, *Certified by Registrar* of county where deposited, shall be taken as evidence of the original plan and survey of such town or village, in all courts of record..... 12 V. c. 35, s. 42.

LAND SURVEYOR IN UPPER CANADA taking evidence, and any document or plan prepared and sworn to before a justice of peace by any surveyor, with reference to any survey by him performed, *May be filed* and kept in registry office of county in which lands to which it relates shall be situate, *Subject to be produced* thereafter in evidence in any court of law or equity within Upper Canada.

Registrar entitled to 1s. 3d. on receiving and filing, and *Expense of filing* to be borne by the parties in the same manner as other expenses of the survey 12 V. c. 35, s. 47.

REGISTRAR'S CERTIFICATE of registration to be evidence of the registry of deed, conveyance, will or probate, in all courts of record in Upper Canada, notwithstanding any thing in 9 V. c. 34 16 V. c. 187, s. 6.

POWER OF ATTORNEY, by grantor, in deed executed thereunder; *Memorial of*, may be registered on the same evi-

57, s. 20.

1. s. 47.

c. 45, s. 1.

c. 45, . 2.

EVIDENCE *continued.*

dence as a memorial of a deed or conveyance is now legally registered 16 V. c. 187, s. 7.

ON WHICH MEMORIAL of deed, conveyance, will or power of attorney, affecting or relating to land in Upper Canada, but

Executed or published out of Upper Canada, to be registered 18 V. c. 127, s. 5.

EXECUTION OF DEED

WHEN NO MEMORIAL of deed or conveyance, (executed after 1st January, 1851,) shall have been duly registered,

Then such Deeds or Conveyances shall be deemed and taken to be valid and effectual both at law and in equity,

According to the priority of time of execution... 13, 14 V. c. 63, s. 4.

UNDER WHICH SUBSEQUENT PURCHASER OR MORTGAGEE, for valuable consideration claims

Before Registration in Queen's Bench, in Toronto, of deed, &c., under which Crown debt is created.

Crown Debt security not deemed valid or sufficient to charge or affect any lands, &c., of any person executing the same, or affected thereby, as against subsequent purchaser or mortgagee for valuable consideration of the same lands of such person, or against any subsequent registered judgment on the same lands, against such person or persons 14, 15 V. c. 9, s. 1.

EXECUTION

AGAINST LANDS, party having prior registered judgment, delaying or neglecting to put into the hands of the proper sheriff, for one year after entry of the judgment, effect of, to let

EXECU

EXECU
OF

On

To

Th

Th

Ar

Su

FEES

Fo

Fo

Cl

EXECUTION *continued.*

in unregistered judgment entered after passing of the act

9 V. c. 34, s. 18.

EXECUTOR

OF MORTGAGEE OR ADMINISTRATOR OF DECEASED MORTGAGEE, when entitled to the money secured by the mortgage, or who shall have assented to a bequest thereof, or shall have assigned the mortgage debt, shall have power,

On Payment of the principal money and interest due on the mortgage, or if the mortgage money shall have been paid to the testator in his lifetime,

To Convey, release and discharge the said mortgage debt, and

The legal estate in the land, and such executor or administrator shall also have

The same power as to any portion of the lands, on payment of some part of the mortgage debt, or on any

Arrangement for exonerating the whole or part of the mortgaged lands without payment of money, and

Such Conveyance, release or discharge shall be as effectual as if the same had been made by any person having the legal estate ...

14, 15 V. c. 7, s. 8.

FEES

FOR REGISTRATION, to be paid previously to, or registrar not compelled to register any deed, conveyance, will or other instrument.....

9 V. c. 34, s. 27.

FOR CERTIFICATE OF JUDGMENT, clerk of court in which obtained, to give, on payment of 2s. 6d.

9 V. c. 34, s. 13.

CLERK OF QUEEN'S BENCH entitled to,

187, s. 7.

127, s. 5.

c. 63, s. 4.

V. c. 9, s. 1.

FEES *continued.*

- For Registration* of any such deed, bond, contract or other instrument, or release creating or releasing Crown debts, 5s 14, 15 V. c. 9, s. 4.
- EVERY REGISTRAR IN UPPER CANADA, allowed the following fees and no more:
- For drawing affidavit* of execution of instrument and memorial brought to be registered, if done by the registrar or his deputy, including swearing and all certificates thereof, 2s. 6d.
- For recording* every deed, conveyance, will, power of attorney or agreement, including all necessary entries and certificates, 6s. 3d.
- But in case* such entries and certificates exceed 800 words, at the rate for every additional 100 words, 8d.
- For registering certificate* of judgment, 2s. 6d.
- Satisfaction* thereof, 2s. 6d.
- For entering certificate* of payment of mortgage money, including all entries and certificates thereof, 2s. 6d.
- Drawing affidavit* of the execution thereof, including the swearing of the witness, when done by the registrar or his deputy, 2s. 6d.
- For searching records* relating to the title of any lot or parcel of land, not exceeding four references, 1s. 3d.
- For every additional* four distinct references, and so in proportion for every number of searches made, 1s. 3d.
- A general search* into the title to any particular lot, piece or parcel of land, not to exceed in any case the sum of 10s.
- For every extract* furnished by the registrar, including certificate, 1s. 3d.
- Where the same exceeds* 100 words, for every

FEES

B

A

S

S

R

O

O

R

F

T

T

T

T

R

FEES *continued.*

- additional 100 words contained in such extract or certificate, 9d..... 16 V. c. 187, s. 8.
- BOOK OF FEES to be kept by every registrar of Upper Canada, in which he shall enter *All the Fees* and emoluments received by him as registrar, showing
- Separately* the sums received for registering memorials, certificates and other documents, and for searches, and
- Shall make a Return* of such fees and emoluments in detail to the Legislature annually 16 V. c. 187, s. 9.
- REGISTRAR to take the following for services performed under this act :
- On Registering* any certificate of a suit or proceeding in equity, 2s. 6d.
- On Registering* any certificate of decree, 5s..... 18 V. c. 127, s. 7.
- REGISTRAR entitled to, on registering certificate of sheriff's deed or sale for non-payment of taxes,
- For Registry* and certificate, 3s. 6d. 16 V. c. 182, s. 65.
- To REGISTRAR, for registry and certificate on sale for taxes, prior to 1851, (see 16 V. c. 182, s. 66,) the sum of 2s. 6d. 6 Geo. IV., c. 7, s. 20.
- To REGISTRAR, on recording map or plan of town or village in Upper Canada,
- The same* as for the record of any other document which is by law required to be entered of record 12 V. c. 35, s. 43.
- To REGISTRAR, for receiving and filing document or plan prepared by land surveyor in Upper Canada, in registry office, to be kept for production as evidence in court of law or equity in Upper Canada 12 V. c. 35, s. 47.
- REGISTRAR OF COUNTY, from which part is separated, entitled to receive, for furnishing statements of title to registrar of new coun-

FEES *continued.*

ties, the sum of 1s. 3d. for every folio of
100 words contained in any such statement
so furnished..... 14, 15 V. c. 5, s. 17.

FILING

PLAN OR DOCUMENT prepared by land surveyor
in Upper Canada, in registry office, to be
kept for production as evidence in court of
law or equity in Upper Canada..... 12 V. c. 35, s. 47.

FINE

NOT EXCEEDING £100, court of oyer, &c., may,
on conviction of registrar of misdemeanour,
under act inflict on him 18 V. c. 127, s. 6.

FORECLOSURE

JUDGMENT CREDITOR not necessary party to
mortgagee's bill for foreclosure,
Unless Judgment registered in registry office of
county where lands are situate,
Before the filing of the bill..... 18 V. c. 127, s. 2.

BILL FOR FORECLOSURE of any registered mort-
gage, does not require any certificate of
registrar of the Court of Chancery to be re-
gistered, in order to be deemed notice of
such bill 18 V. c. 127, s. 3.

DECREE OF FORECLOSURE in Chancery affecting
any title to land,
Shall and may be Registered by any person, in
the county registry office, in the county
where the land is situate,
On a Certificate to be given by the registrar of
the court, stating the substance and effect
of such decree, and the lands affected
thereby 18 V. c. 127, s. 4.

FORFEITURE

- OF OFFICE BY REGISTRAR guilty of misdemeanour, for refusing to deliver memorials, &c., under this act and under 16 V. c. 187, to registrar of county to which a part of his county has been or shall be attached..... 18 V. c. 127, s. 6.

FORSWEARING

- ANY PARTY, before registrar or deputy, or judge, commissioner, or other person authorised to administer an oath in cases aforesaid, on conviction, liable to same penalties as if taken in any court of record in the province 9 V. c. 34, s. 17.
- REPEAL of so much of the 17th section of the act 9 V. c. 34, as relates to the forging or counterfeiting of any certificate, affidavit or memorial therein mentioned 10, 11 V. c. 9, s. 22.

FRAUD

- REGISTRAR OR DEPUTY committing, &c., in execution of office, on conviction, to forfeit office and to pay treble damages to party injured, &c 9 V. c. 44, s. 21.

FRAUDULENT AND VOID

- EVERY DEED, WILL, &c., adjudged to be, which is made and executed of the lands, &c., contained in and after any memorial comprising the same or a part of the same lands, is on the register, against subsequent purchaser or mortgagee for valuable consideration, *Unless a Memorial* of such deed, will, &c., be registered, before the registering of the memorial of the subsequent purchaser's or mortgagee's deed..... 9 V. c. 34, s. 6.
- DEED, DEVISE OR OTHER CONVEYANCE, executed

FRAUDULENT AND VOID *continued.*

after 1st January, 1851, after grant from Crown and deed patent issued, not only fraudulent and void against subsequent purchasers, &c., but

Against subsequent Judgment Creditor who registers certificate of his judgment, unless memorial be registered under 9 V. c. 34, before the registering of the memorial of the deed, &c., or certificate of judgment under which such subsequent purchaser or judgment creditor, &c., claims 13, 14 V. c. 63, s. 3.

GOVERNOR

MAY REMOVE REGISTRAR from office on receiving presentment of grand jury, to be made on the oath of one or more competent witnesses, that he refuses to keep his office in place appointed, &c..... 9 V. c. 34, s. 19.

MAY REMOVE REGISTRAR from office, ceasing to reside within county, or by sickness wholly incapable to discharge duties, on presentment by grand jury 9 V. c. 34, s. 20.

MAY REMOVE REGISTRY OFFICE, by proclamation, to such other place in county as he shall deem expedient 9 V. c. 34, s. 30.

ON VACANCY OF OFFICE OF REGISTRAR in either of the united counties of Lennox and Addington, Prescott and Russell, Lincoln and Welland, may, in his discretion, divide said counties in which vacancy may happen, and appoint a registrar for each county separately. 9 V. c. 34, s. 34.

WORDS "GOVERNOR OF THE PROVINCE," what to include..... 9 V. c. 34, s. 35.

GOVERNOR IN COUNCIL

MAY RELEASE charge of Crown debts on lands

GOVERNOR IN COUNCIL *continued.*

and the order thereon to be registered with
the clerk of the Queen's Bench 14, 15 V. c. 9, s. 3.

GRANTEE, &c.

WHEN WITNESSES ARE DEAD, or permanently
resident out of the province, may prove exe-
cution of instrument at quarter sessions,
and procuring certificate from chairman, &c.,
the registrar to record the deed with the
said certificate..... 9 V. c. 34, s. 11.

c. 63, s. 3.

HOLIDAYS

AT REGISTRY OFFICES IN UPPER CANADA,
Christmas, New Year's Day, Good Friday,
Ash Wednesday, Easter Monday, and the
Queen's Birth Day 16 V. c. 187, s. 13.

c. 34, s. 19.

INSTRUMENT

CREATING CROWN DEBT, clerk of Queen's Bench,
in Toronto, on production of copy, certified
by the proper officer having custody of same,
to enter and register in separate book, which
binds and charges lands from registry..... 14, 15 V. c. 9, s. 2.

c. 34, s. 20.

CREATING CROWN DEBT and charging lands, the
charge may be released by Governor, in
Council, which release may be perfected by
regisration of order with the clerk of the
Queen's Bench, in Toronto..... 14, 15 V. c. 9, s. 3.

c. 34, s. 30.

FEE OF FIVE SHILLINGS, payable to clerk of
Queen's Bench, for registration of instru-
ment creating or releasing Crown debt..... 14, 15 V. c. 9, s. 4.

c. 34, s. 34.

CREATING CROWN DEBTS made before the pass-
ing of this act to Her Majesty or predeces-
sors, of the nature mentioned in first section,
to be registered as in the second section
mentioned, within one year from the passing

c. 34, s. 35.

INSTRUMENT *continued.*

of this act (2nd August, 1851,) or in default, lands or interest in lands of the person who executed the same, discharged therefrom as to any subsequent purchaser, or mortgagee, or registered judgment creditor of such person of the same lands, for valuable consideration.....

14, 15 V. c. 9, s. 5.

REGISTRATION OF, EMBRACING DIFFERENT LOTS of land situate in different localities in the same county,

One Memorial only is necessary of, to be copied in the registry book for the city, &c., to the same extent only as if a separate memorial had been furnished in relation to the lands in such city, &c.

16 V. c. 187, s. 5.

INTERPRETATION

WORDS "Upper Canada" to mean that portion of the Province which formerly constituted the Province of Upper Canada.

Lower Canada, act not to apply to that portion of the Province formerly constituting Lower Canada.

"*Governor of the Province*," to include the Lieutenant Governor, or person administering the government of this Province.....

9 V. c. 34, s. 35.

"**COUNTY**," in foregoing provisions of act shall mean any county or union of counties for which a separate registry office is or shall be required by law to be kept.....

16 V. c. 187, s. 11.

IDENTITY

OF DEED, WILL, &c., EXECUTED OUT OF LIMITS OF UPPER CANADA, with the deed, &c., referred to in affidavit or affirmation taken before judge, &c., to be proved by certificate

IDENT

INDE
R

T

JUDG
C

JUDG
E

IDENTITY *continued.*

of judge, &c., indorsed on deed, &c., before
 memorial shall be registered 9 V. c. 34, s. 10.

INDEX

REGISTRAR TO PREPARE ALPHABETICAL INDEX
 of entries in separate book of registries of
 certificates of judgment after passing of act,
 10th August, 1850..... 13, 14 V. c. 63, s. 9.

TO ACCOMPANY STATEMENT OF TITLES, &c., fur-
 nished by registrar of one county to regis-
 trar of another, or detachment of parts from
 one and attachment to another county, &c. 16 V. c. 187, s. 2.

JUDGE OF COUNTY COURT.

CERTIFICATE now given by provincial secretary
 in and with regard to registry book to be
 given by, in form or effect of, in schedule
 to act 16 V. c. 187, s. 3.

JUDGMENT

ENTERED UP IN ANY SUIT OR ACTION in any court
 of record in Upper Canada, whereby any
 lands, tenements or hereditaments within
 the same are or may be affected, plaintiff or
 defendant or attorney may obtain certificate
 of from clerk of the court on payment of
 2s. 6d.

Registrar or Deputy of county where lands lie
 belonging to the party against whom the
 judgment is entered, on receipt of certificate
 under signature of clerk and seal of court
 to record same.

To bind the Lands, tenements and hereditaments
 from the date of recording in the county
 wherein such lands, &c., lie.

Unregistered Judgment entered after the passing

JUDGMENT *continued.*

of this act, to take effect against a prior registered judgment, unless the party who shall have the first registered judgment shall neglect or delay the putting his execution against lands in the hands of the proper sheriff for one year next after the entry of the judgment

9 V. c. 34, s. 13.

DISCHARGE OF ANY REGISTERED JUDGMENT, to be entered by registrar as "discharged" on receipt of satisfaction piece under seal of court where judgment entered and signed by clerk.....

9 V. c. 34, s. 23.

REGISTERED BEFORE THE PASSING OF THIS ACT; the party in whose favour the same shall have been rendered, may require the registrar of any county to mark on the margin of such registry, and sign the same. "Registered this day of A.D. Eighteen .."

And such entry of registry shall have the same effect from such date as if it had been registered under this section.....

13, 14 V. c. 63, s. 1.

ESTATE, RIGHT, TITLE OR INTEREST, which, under the 5th section of this act, might be validly conveyed or assigned by any party

Shall be bound by the Judgments of any court of record, and shall be liable to seizure and sale under any writ of execution, &c,

12 V. c. 71, s. 13.

ENTERED UP IN ANY COURT OF RECORD IN UPPER CANADA, after 1st January, 1851, shall operate as

A Charge so soon as a certificate of such judgment shall have been duly registered

Upon all Lands, tenements and hereditaments within the county where certificate registered of, or to which such person shall, at the time of registering such judgment, or at

JUDGME

And

And

And

Jud

Jud

RE

Ac

JUDGMENT *continued.*

any time afterwards, be seized, possessed, or entitled for any estate or interest at law or in equity, in possession, reversion, remainder or expectancy, or over which he shall then or thereafter have any disposing power which he might without the assent of any other person exercise for his own benefit,

64, s. 13.

And Shall be Binding against the person against whom judgment shall be so entered up and registered,

And against all Persons claiming under him after such judgment and registry,

64, s. 23.

And shall also be Binding against the issue of his body and all other persons whom he might without the assent of any other person cut off and debar from any remainder, reversion or any other interest in or out of the said lands, &c.

Judgment Creditor shall have Same Remedies in a court of equity against the hereditaments so charged by virtue of this act, as he would be entitled to in case the person against whom such judgment shall have been entered up and registered had power to charge the same hereditaments, and had by writing, under his hand, agreed to charge the same with the amount of such judgment debt and interest.

63, s. 1.

Judgments Valid and Effectual according to the priority of registering such certificates 13, 14 V. c. 63, s. 2.

RECOVERED AFTER JANUARY 1ST, 1851, a certificate whereof shall be duly registered, shall be deemed and taken as good in law and equity,

According to the Priority of the time of registering of such certificate..... 13, 14 V. c. 63, s. 4.

1, s. 13.

JUDGMENT *continued.*

- REGISTRATION OF CERTIFICATE OF judgment deemed to be registry of judgment..... 13, 14 V. c. 63, s. 7.
- REGISTERED UNDER 9 V. c. 34, or this act affecting any lands, registry to be
Notice in Equity to all persons claiming any interest in such lands, &c., subsequent to such registry 13, 14 V. c. 63, s. 8.
- CERTIFICATE OF, REGISTRAR TO ENTER in separate book, after passing of act (10th August, 1850) 13, 14 V. c. 63, s. 9.
- SUBSEQUENT, REGISTERED, CROWN DEBTS NOT TO BE VALID against, unless a copy of the security to the Crown, certified by the proper officer having the custody of the same, shall be registered in the office of the clerk of the Queen's Bench, in Toronto, before the registry of such subsequent judgment... 14, 15 V. c. 9, s. 1.
- OF COURT OF RECORD IN UPPER CANADA not to create a lien or charge on any lands, tenements or hereditaments in Upper Canada, or upon any interest in lands that are now (the act came into operation on 1st July, 1855), or hereafter may be liable to seizure or sale on any execution against lands,
Until Registered in the manner now provided by law for registering judgments
In the Registry Office of the county in which such lands are situate..... 18 V. c. 127, s. 1.
- NOT REGISTERED IN REGISTRY OFFICE of county where lands lie, before the filing of bill of foreclosure by mortgagee,
Judgment Creditor not a necessary party to bill of foreclosure by mortgagee 18 V. c. 127, s. 2.
- ENTERED OF RECORD before, as well as after the passing of act, (1st July, 1855,) act to apply to..... 18 V. c. 127, s. 8.

JUDGM

CH

DR

A

M

A

C

A

JUDGMENT *continued.*

- 63, s. 7. CHANCERY DECREES OR ORDERS registered, to have the same effect as the registry of a judgment 20 V. c. 56, s. 10.
- 63, s. 8. DEPUTY CLERK OF CROWN who shall enter up in either of the superior courts, may give to the party on whose behalf it is entered, or his legal representative,
A *Certificate* of the judgment, signed by him, which
May be Registered in the registry office of any county of Upper Canada, and shall have the like force and effect as
A *charge upon Lands, &c.*, situated within such county as if the certificate had been granted at the principal office in Toronto 19 V. c. 43, s. 15.
- c. 9, s. 1. CLERK OF COUNTY COURT who enters up any judgment in either of the said (county) courts, may give to the party on whose behalf it is entered, or to his legal representative,
A *Certificate*, signed by him, of such judgment, containing the like particulars as are required in certificates of judgments given by the clerks of the Crown and Pleas, and such certificate
May be Registered in the registry office of any county in Upper Canada, and the same
Certificate and Registration thereof shall have the like force and effect in binding or operating as a
Charge on Lands, &c., situate within such county, as if the certificate had been granted by a clerk or deputy clerk of the Crown 19, 20 V. c. 90, s. 7.
- 27, s. 2. REGISTERED AGAINST LAND in any county, shall
Cease to be a Lien or Charge upon the land of the party against whom the judgment has
- 27, s. 8.

JUDGMENT *continued.*

been rendered, or any one claiming under him

In Three Years after such judgment has been registered, or

Within One Year after the passing of this act (10th June, 1857,) such judgment

Shall be Re-registered, and

Such Lien or Charge shall cease whenever the period of three years shall at any time be allowed to elapse without a further re-registry.....

20 V. c. 43, s. 15.

REGISTERED AGAINST LAND shall and may be *Discharged* from the registry of the county where the same is registered, on the

Production to the Registrar of such county of a *Certificate*, signed by the judgment creditor, or if more than one, by any one of them, his executors, administrators or assigns, to the effect of the form given in the section.

Proof of such Certificate to the registrar shall be by the

Affidavit of one subscribing witness, who has witnessed the execution of such certificate, which may be taken before any person before whom the registry of any deed or other instrument can be taken.

Provido, that Registry of Judgment may also be discharged in the manner now provided by law

20 V. c. 57, s. 20.

JUDGMENT CREDITOR

REMEDIES OF, IN EQUITY, against hereditaments charged by virtue of this act, the same as he would be entitled to in case the person against whom such judgment shall have been entered up and registered, had power

JUDGMENT CREDITOR *continued.*

to charge the same hereditaments, and had by writing under his hand agreed to charge the same with the amount of such judgment debt and interest..... 13, 14 V. c. 63, s. 2.

DEED, DEVISE OR OTHER CONVEYANCE, EXECUTED AFTER JANUARY 1ST, 1851, after any grant of lands from Crown and deed patent issued, whereby any lands, &c., may be affected, adjudged fraudulent and void against subsequent judgment creditor, who shall have registered a certificate of his judgment, unless memorial registered under 9 V. c. 34, before the registering of the certificate of judgment under which judgment creditor claims.

Will, Devisees under, judgment creditor subject to the provisions of 9 V. c. 34, s. 12.

Equitable Mortgagees, rights of, as now recognised in Court of Chancery, not to be affected 13, 14 V. c. 63, s. 3.

JUDGMENT REGISTERED, freed and discharged from deed, bond, contract or other instrument creating Crown debt to Her Majesty or predecessors, of the nature mentioned in first section of act,

Unless such Deed, &c., shall be registered in the manner mentioned in the second section,

Within One Year from the passing of this act, (2nd August, 1851,) 14, 15 V. c. 9, s. 5.

NOT NECESSARY PARTY TO BILL FOR FORECLOSURE of any mortgage,

Unless Judgment Registered in registry office of county where lands are situate,

Before the Filing of mortgagee's bill for foreclosure 18 V. c. 127, s. 2.

43, s. 15.

57, s. 20.

JUDGMENT CREDITOR *continued.*

MORTGAGEE OR HIS ASSIGNEE may take and receive from the mortgagor or his assignee. *A Release of the Equity of Redemption* in the property, or may purchase the same under any power of sale in his mortgage, or any judgment and decree,

Without thereby Merging the mortgage debt as against any subsequent mortgagee or

Registered Judgment Creditor of the same property 14, 15 V. c. 45, s. 1.

NO REGISTERED JUDGMENT CREDITOR and no subsequent mortgagee or his assignee shall be entitled to

Foreclose or Sell property, of which any prior mortgagee or his assignee shall have taken a release of the equity of redemption of the mortgagor or his assignee, or which such prior mortgagee or his assignee shall have purchased under any power of sale in his mortgage, or any judgment or decree,

Without Redeeming or Selling, subject to such prior mortgagee or his assignee, in the same manner as if such prior mortgagee or his assignee had not taken, received or purchased such equity of redemption of the mortgagor or his assignee 14, 15 V. c. 45, s. 2.

PRIORITY OR CLAIM which any mortgagee or judgment creditor shall or may have or be entitled to under any act in force relating to the

Registry of Titles to land, this act shall not be construed to affect 14, 15 V. c. 45, s. 3.

LAND

CERTAIN RELIGIOUS SOCIETIES may hold by trustees in perpetual succession, for the site

LAND c

TRU

ANY

To

JU

No

AN

SH

LAND *continued.*

of a church, meeting house, chapel, or
burying ground 9 Geo. IV., c. 2, s. 1.

TRUSTEES OF CERTAIN RELIGIOUS SOCIETIES to
register in the office of the registrar of the
county where the land lies, within twelve
months after execution, the deed of land
held for the site of a church, meeting house,
chapel, or burying ground..... 9 Geo. IV., c. 2, s. 3.

ANY RELIGIOUS SOCIETY or congregation of
Christians requiring land for a church,
chapel, meeting house, burial ground and
residence for a minister, may have con-
veyed to trustees and their successors, in
perpetual succession,

To be Registered by the trustees within twelve
months after execution of the deed, in the
office of the registrar of the county where
the land is situate 8 V. c. 15, s. 1, 2.

JUDGMENT AFFECTS AND BINDS, &c., belonging
to party against whom judgment is rendered
from the date of the recording of the same,
in the county wherein such lands, &c., lie.

No Unregistered Judgment, entered after the
passing of the act, shall take effect against
a prior registered judgment, unless the
party who shall have the first registered
judgment, shall neglect or delay the putting
his execution against lands, into the hands
of the proper sheriff for one year next after
the entry of such judgment..... 9 V. c. 34, s. 13.

ANY ESTATE, RIGHT, TITLE, OR INTEREST IN
LAND, which, under the 5th section of this
act, might be validly conveyed or assigned
by any party,

Shall be Bound by the Judgments of any court
of record, and shall be liable to seizure and

c. 45, s. 1.

c. 45, s. 2.

c. 45, s. 3.

LAND *continued.*

sale under any writ of execution against such party, in like manner and on like conditions as lands of such party are now by law liable to seizure and sale under execution, and

The Sheriff Selling the same may Convey and assign the same to the purchaser in like manner and with like effect as such party might himself have done..... 12 V. c. 71, s. 13.

JUDGMENT entered up in any court of record in Upper Canada after January 1st, 1851, to be a charge on land in county where certificate registered, so soon as a certificate of such judgment shall have been duly registered 13, 14 V. c. 63, s. 2.

LEGAL ESTATE IN LAND MORTGAGED in whole or part of land, may be conveyed by executor of deceased mortgagee entitled to receive mortgage debt, &c., on payment of debt, or without payment, on arrangement for exonerating the whole or part of the land 14, 15 V. c. 7, s. 8.

THE 13TH SEC. OF 12 V. c. 71, shall extend and be applied to any estate, right or title, or interest in lands which may be disposed of by deed under the 5th section of this act 14, 15 V. c. 7, s. 9.

WHEN CHARGED WITH CROWN DEBTS, as against subsequent purchaser and mortgagees, for valuable consideration and judgment creditors 14, 15 V. c. 9, s. 1.

CHARGED WITH CROWN DEBTS, from and after registration of the deed, &c., under which created, with clerk of Queen's Bench, in Toronto 14, 15 V. c. 9, s. 2.

CHARGED WITH CROWN DEBTS, Governor in Council may release by order, on registra-

LAND c

OR

Mac

Dis

As

Un

Sha

Wi

DE

Sha

TI

RE

Du

U

LAND *continued.*

- tion of which with clerk of Queen's Bench,
they shall be released..... 14, 15 V. c. 9. s. 3.
- OR INTEREST IN LANDS, of person who shall
have executed such deed, bond, contract, or
other instrument, (creating Crown debts,
Made before the Passing of this Act,
Discharged from the same,
As to any Subsequent Purchaser or Mortgagee,
or Registered Judgment Creditor of such
of the same lands, for valuable consideration,
Unless such Deed, &c., of the nature mentioned
in the first section of act
Shall be Registered in the manner in the second
section mentioned,
Within One Year from the passing of this act,
(2nd August, 1851) 14, 15 V. c. 9, s. 5.
- DEED OF REAL ESTATE made and executed by
or in favour of the corporation named "The
Connexional Society of the Wesleyan Me-
thodist Church in Canada," (except leases
for a term not exceeding nine years,
Shall be duly Registered within twelve calendar
months after the making and execution
thereof, otherwise void and of no effect... 14, 15 V. c. 142, s. 5.
- TITLE TO, INCLUDED IN DEED TO TRUSTEES OF
RELIGIOUS SOCIETY, gained by reason of
their omission to register in due time, not to
be affected by act 16 V. c. 126, s. 1.
- REGISTRATION BY COMMISSIONER OF CROWN
LANDS of assignments by original nominee,
&c., how and on what evidence effected (see
"Commissioner of Crown Lands")..... 16 V. c. 159, s. 7.
- DUTIES OF COMMISSIONER OF CROWN LANDS to ex-
tend to the registration of assignments of all
claims heretofore located or located hereafter.
Unconditional, all such assignments to be 16 V. c. 159, s. 8.

LAND *continued.*

- REGISTRATION OF SHERIFF'S DEED of sale of, for non-payment of taxes (see "Taxes")..... 16 V. c. 182, s. 65.
- SHERIFF'S DEED OF SALE FOR NON-PAYMENT OF TAXES before 1st January, 1851, to be under 6 Geo. IV. c. 7, notwithstanding repeal of that act by 13 & 14 Vic. c. 66..... 16 V. c. 182, s. 66.
- ONE MEMORIAL ONLY NECESSARY of deed, will, or other instrument embracing different lots of, in different localities in the same county ... 16 V. c. 187, s. 5.
- TITLE OF OR INTEREST IN LAND affected by decree in Chancery, where and how decree to be registered (see "Decree")..... 18 V. c. 127, s. 4.
- EVIDENCE on which memorial of deed, conveyance, will, or power of attorney affecting or relating to, in Upper Canada, but executed or published out of Upper Canada, to be registered 18 V. c. 127, s. 5.
- CERTIFICATE AND REGISTRATION of certificate given by Deputy Clerk of the Crown of judgment entered, operates as
- A Charge on Lands, &c.*, situated within the county where registered, as if the certificate had been granted at the principal office in Toronto 19 V. c. 43, s. 15.
- CHARGE ON is made by
- Registration of Certificate* of judgment given by Clerk of County Court 19, 20 V. c. 90, s. 7.
- DECREE OR ORDER IN CHANCERY may bind by registration.
- Registration of Decree, &c.*, how to effect in order to bind..... 20 V. c. 56, s. 10.
- COURT OF CHANCERY may confine the effect of registration of decree or order to specified property proved to be sufficient
- Registration of Decree, &c.*, containing such restriction 20 V. c. 56, s. 11.

LAND con
SALE

JUDG

How

LAND S
To CCorr
EVI

Any

Ma

Su

Fe

Fi

LAND *continued.*

- 182, s. 65. SALE OF, MAY BE ORDERED by Court of Chancery
in any proceedings in the same cause, where
decree or order is registered, creating a
charge on lands for the satisfaction of the
money ordered to be paid by the decree, &c. 20 V. c. 56, s. 12.
- 182, s. 66. JUDGMENT REGISTERED CEASES TO BE A LIEN or
charge on, in three years after registration,
or one year from passing of act (10th June,
1857), unless re-registered (see "Re-regis-
tration") 20 V. c. 57, s. 19.
- 187, s. 5. HOW DISCHARGED from registered judgment ... 20 V. c. 57, s. 20.
- 127, s. 4.

LAND SURVEYOR

- 127, s. 5. To CERTIFY with the original owner of site of
town or village, or representative of owner,
that map or plan deposited with registrar
is a
Correct Map or Plan of the same..... 12 V. c. 35, s. 42.
- EVIDENCE TAKEN BY Surveyors in Upper Canada,
and
Any Document or Plan prepared and sworn to
as correct before a J. P. by any Surveyor,
with reference to any survey by him per-
formed,
May be Filed and kept in the registry office of
the county in which the lands to which it
relates shall be situate,
Subject to be produced thereafter in evidence in
any court of law or equity within Upper
Canada.
Fee of one shilling and six-pence, registrar enti-
tled to, for receiving and filing.
Filing map or plan, expense of shall be borne by
the parties in same manner as other expenses
of the survey 12 V. c. 35, s. 47.
- 43, s. 15.
- 90, s. 7.
- 56, s. 10.
- 56, s. 11.

LEASE

- FOR A TERM NOT EXCEEDING TWENTY-ONE YEARS**, where actual possession goes along with it, act not to extend to..... 9 V. c. 34, s. 18.

LEGAL ESTATE

- EXECUTOR OF DECEASED MORTGAGEE** entitled to receive mortgage debt, &c.,
May Convey on payment of mortgage money, or without payment, on arrangement for exonerating the whole or part of the mortgaged premises, which shall be
As effectual as if made by any person having the legal estate 14, 15 V. c. 7, s. 8.

LIEN

- JUDGMENT OF ANY COURT OF RECORD** in Upper Canada not to create a lien or charge on lands or interest in lands now or hereafter liable to seizure or sale on execution..... 18 V. c. 127, s. 1.
- JUDGMENT REGISTERED CEASES TO BE A LIEN** or charge on land of the party against whom rendered or any one claiming under him
In three years from Registration, or one year from passing of act unless re-registered. (See "Re-registration.")..... 20 V. c. 57, s. 19.

LOWER CANADA

- AFFIDAVITS OF EXECUTION** of deed, conveyance or will, or of any certificate of payment of mortgage money executed or published or made in, before whom to be made..... 13, 14 V. c. 63, s. 5.
- ASSIGNMENT OF CROWN LAND LOCATIONS**, executed before notaries, &c., in Canada, when sufficient for registration by Commissioner of Crown Lands..... 16 V. c. 159, s. 8.

MAP OF
OF

OF T

Reg

Wit

Scal

Cert

Cor

Cop

Evi

DE

Re

Do

Fi

Su

O

MAP OR PLAN

OF LAND SURVEYED AND SUBDIVIDED INTO village or town lots to be lodged with registrar with a declaration that it contains a true description of the lots and streets laid out

9 V. c. 34, s. 33.

OF TOWN OR VILLAGE SITE to be made and deposited by owner, &c., in *Registry Office* of county where such town or village is situate, *Within one Year* from passing of act, on a *Scale* not less than an inch to every four chains, which map or plan shall be

Certified by some land surveyor, and by the original owner or his legal representative as a *Correct Plan* or map of the same, and every *Copy* thereof obtained from such registry office and certified as correct by the registrar of such county shall be taken as

Evidence of the original plan and survey of such town, &c., in all courts of record

12 V. c. 35, s. 42

DEPOSITED of site of town or village in registry office,

Registrar's duties thereon.....

12 V. c. 35, s. 43.

DOCUMENT OR PLAN prepared by land surveyor in Upper Canada, may, on being sworn to by such surveyor before a J. P., be

Filed and Kept in the registry office of the county in which lands to which it relates shall be situate,

Subject to be Produced in evidence in any court of law or equity in Upper Canada.....

12 V. c. 35, s. 47.

OF TOWN AND VILLAGE LOTS, on city, town, &c., being detached from one county, and attached to another, to be delivered by registrar of first county to registrar of second county

15 V. c. 187, s. 1.

34, s. 18.

c. 7. s. 8.

127, s. 1.

57, s. 19.

63, s. 5.

59, s. 8.

MAP OR PLAN *continued.*

REGISTRAR of county, &c., from which city, &c., detached, in addition to books and plans mentioned in 1st section of 16 V. c. 187,

To Deliver to registrar of county to which the same has been or shall be attached,

The Original Memorials of all deeds, wills and other conveyances of or relating to any lands within such city, &c.,

And on Refusal to Deliver same as in 16 V. c. 167, or in this act mentioned,

Within Three Months after a demand in writing has been made upon him therefor by the registrar (of the county to which the city &c., is attached),

Deemed guilty of a Misdemeanour, and on conviction thereof, before any court of Oyer and Terminer and general gaol delivery,

Shall Forfeit his Office and be liable to a fine in the discretion of the court, not exceeding one hundred pounds.....

18 V. c. 127, s. 6.

MEMORIAL

CERTIFICATE OF SHERIFF SUBSTITUTED FOR memorial of conveyance by sheriff, on sale for non-payment of taxes, (prior to 1851, See "16 V. c. 182, s. 66.")

6 G. IV. c. 4. s. 19.

May be Registered at the election of the party or parties concerned, of deeds and wills, made after the grant from the Crown.

After any Memorial is so Registered, every deed, will, &c., made, &c., of the lands, &c., comprised in, to be fraudulent and void against subsequent purchaser or mortgagee for valuable consideration unless a memorial of it be registered before the registering of such purchaser's, or mortgagee's deed.

MEMORIAL *continued.*

Of Further Mortgage (whether legal or equitable) to first mortgagee, shall be registered before it shall prevail against a second mortgagee of the lands, or part of, in first mortgage.

9 V. c. 34, s. 6.

EVERY MEMORIAL TO BE ENTERED AND REGISTERED, to be put in writing and brought or transmitted to the office.....

9 V. c. 34, s. 7.

OF DEEDS AND CONVEYANCES TO BE UNDER HAND AND SEAL, of some or one of the grantors, or some or one of the grantees, his or their heirs, executors, or administrators, guardians or trustees,

Attested by two Witnesses, one whereof to be one of the witnesses to the execution of the deed or conveyance, which witness shall, on oath, (except where otherwise provided for by act,) before registrar or deputy or judge of Q. B., or of a district (now county) court, or commissioner of Q. B. in U. C., prove the signing and sealing of such memorial, and the execution of the deed or conveyance mentioned in memorial.

127, s. 6.

Of Wills, to be Under the Hand and Seal of some or one of the devisees, his or their heirs, executors or administrators, guardians, or trustees,

. 4. s. 19.

Attested by two Witnesses, one whereof shall, upon oath, before either of the parties aforesaid, prove the signing and sealing of such memorial.

Certificate to be Indorsed on back of memorial and signed by party who administered oaths

9 V. c. 34, s. 7.

OF DEED, CONVEYANCE OR WILL to contain

The Day of the Month and Year when deed, &c., bears date,

The Names and Additions of all the parties to

MEMORIAL *continued.*

such deed, conveyance or will, or the devisor or testator of such will (as mentioned or set forth in such deed, conveyance or will,) and

Of all the Witnesses to such deed or conveyance, and

The Places of their Abode, and

Shall Express or Mention the Lands, tenements or hereditaments contained in such deed, will or conveyance, and

The Names of all the Townships or parishes within the said county or counties, riding or ridings where any such lands, &c., are lying or being, that are given, granted, conveyed, devised, or any way affected or charged by any such deed, will or conveyance, or to the same effect.

Such Deed, Conveyance or Will or Probate of the same of which such memorial is to be registered, shall be

Produced to the Registrar or his deputy at the time of entering such memorial, who shall

Indorse a Certificate on every such deed, &c., and therein mention the certain day, hour and time on which such

Memorial is Entered and Registered, expressing also in what book, page and number the same is entered, and that the

Registrar or his deputy shall

Sign the said Certificate when indorsed, which certificate shall be taken and allowed as

Evidence of such Registries in all courts of record whatsoever

9 V. c. 34, s. 8.

AND EVERY PAGE of such register book, and *Every Memorial* that shall be entered therein shall be numbered, and

MEMOR

The

Eve

Ma

An

Nu

En

OF

N

O

F

MEMORIAL *continued.*

The Day of the Month and the Year and Hour,
or time of the day when

Every Memorial is Registered, shall be entered
in the

Margins of the said Register Books, and of the
said memorial.

And every Registrar shall keep an alphabetical
calendar of all townships and parishes
within the said county or counties, riding or
ridings, with reference to the

Number of every Memorial that contains the
lands, tenements or hereditaments in every
such township or parish respectively, and
of the names of the parties mentioned in
such memorial, and the said registrar shall

Enter or Register the said Memorials in the
same order that they shall respectively
come to his hand.....

9 V. c. 34, s. 8.

OF DEED, CONVEYANCE OR WILL, EXECUTED,
&c., WITHOUT THE LIMITS OF UPPER CANADA,
to be registered upon production of certain
evidence.

Not to be Registered unless the deed, &c., to
which it relates is identified as that referred
to in affidavit or affirmation, by a certificate
indorsed thereon, under the hand of the
judge or commissioner or other person be-
fore whom the affidavit or affirmation was
made or taken.....

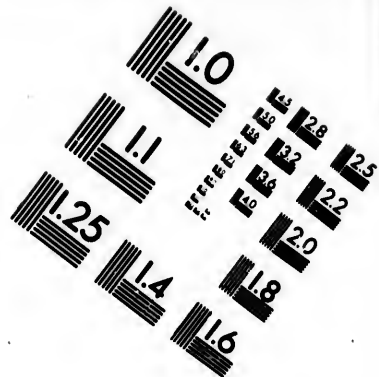
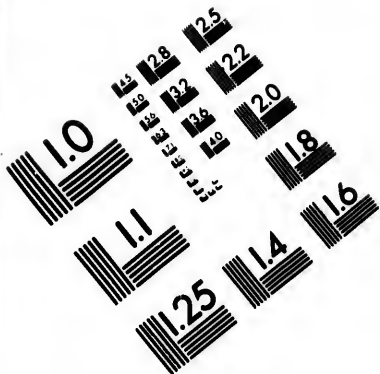
9 V. c. 34, s. 10.

OF DEED, DEVISE OR CONVEYANCE, EXECUTED
AFTER JANUARY 1ST, 1851, after any grant
from the Crown and deed patent issued
thereof to be registered,

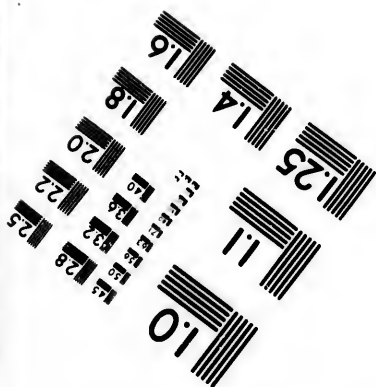
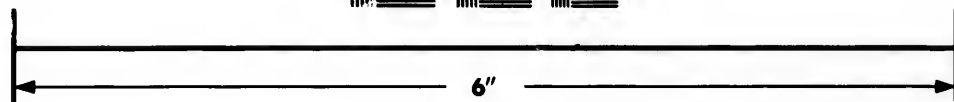
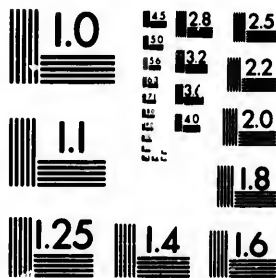
Before the Registering of the Memorial of the
deed, devise or conveyance under which
subsequent purchaser or mortgagee claims,

34, s. 8.





**IMAGE EVALUATION
TEST TARGET (MT-3)**



**Photographic
Sciences
Corporation**

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

0
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MEMORIAL *continued.*

Or before the Registering of the Certificate of Judgment under which judgment creditor claims,

Or such Deed, Devise or Conveyance adjudged *Fraudulent and Void* against such subsequent mortgagee or judgment creditor,

Subject as to Devisees, to the 12th section of the 9 V. c. 34.

Equitable Mortgagees, rights of, as recognised in Court of Chancery, not to be affected... 13, 14 V. c. 63, s. 3.

REGISTERED, OF DEED EXECUTED AFTER JANUARY 1ST, 1851, good and effectual in law and equity, according to the priority of the time of registration..... 13, 14 V. c. 63, s. 4.

ONE ONLY NECESSARY TO BE FURNISHED of any deed, will or other instrument, embracing

Different Lots or parcels of land, situate in

Different Localities in the same county,

To be Copied into the registry book for the city, town, township or place in which the different parcels or lots of land are situate,

In the same Manner and to the same extent only

As if a Separate Memorial had been furnished in relation to the lands situate within such city, town, township or place respectively, and

Registrar to make the necessary entries and certificates accordingly.

Certificate of Registry of one only, to be allowed or charged for, and in counting folios to be charged for, the marginal certificates, notes, or references shall not be included

16 V. c. 187, s. 5.

THE 9TH SECTION OF 9 V. c. 34, repealed.

Shall be Entered and Registered by the registrar or his deputy,

Of any such Deeds, Conveyances, Wills or Pro-

MEMOR

Wa

Pr

Or

SH

In

S

R

A

A

I

MEMORIAL *continued.*

bates as shall be made and executed or published in any place

Within Upper Canada, other than the county in which the lands mentioned therein lie,

Provided an Affidavit, sworn before one of the judges of the superior courts of common law or equity in Upper Canada, or a judge of any county court within his county, or a commissioner in the Queen's Bench or Common Pleas in Upper Canada, be brought to the registrar or his deputy, wherein

One of the Witnesses to the execution of such deed or conveyance

Shall Swear to the execution of the same, as also of the memorial thereof, and to the place where the same were executed, and

In case of Wills, *one of the Witnesses* to the memorial of such will or probate thereof

Shall Swear to the execution of such memorial
REGISTRAR THEREUPON or his deputy to give the party who brings such deed, &c., and affidavit

16 V. c. 187, s. 6.

A Certificate of the Registering of the same, which, signed by the registrar, or deputy, shall be taken and allowed

As Evidence of the Registry of the same, in all courts of record in Upper Canada, notwithstanding any thing in 9 V. c. 34.....

16 V. c. 187, s. 6.

REGISTRATION OF MEMORIAL OF LETTER OR POWER OF ATTORNEY from grantor in deed executed thereunder, may be

In the same Manner and on the same evidence as a memorial of a deed or conveyance is now legally registered

16 V. c. 187, s. 7.

OF ANY DEED, CONVEYANCE, WILL OR POWER OF ATTORNEY affecting or relating to any

c. 63, s. 3.

c. 63, s. 4.

. 187, s. 5.

MEMORIAL *continued.*

lands, &c., in Upper Canada, which shall have been or may be hereafter

Executed or Published in any place without Upper Canada,

Shall be Registered by the registrar or his deputy of any county in which such lands are situate,

Either on the Evidence already required by law,

Or on an Affidavit sworn before any judge of either of the superior courts of common law or equity in Upper or Lower Canada, or before any judge of the county court in Upper Canada or circuit court in Lower Canada, or a commissioner authorised to take affidavits in Upper or Lower Canada, by any of the superior courts of common law, or the registrar or deputy registrar of the county in which such lands are situate, wherein

One of the Witnesses to the execution of such deed, will, conveyance or power of attorney, shall

Swear to the Execution of the same, and also to the place where the same was executed.....

18 V. c. 127, s. 5.

ON DETACHMENT OF CITY, TOWNSHIP, &c., from one county, and attachment to another,

The Original Memorials of all deeds, wills and other conveyances of or relating to any lands,

To be Delivered by Registrar of first to registrar of second county, and

On Refusal to Deliver same as in 16 V. c. 187, or in this act mentioned,

Within Three Months after demand in writing, shall be

Deemed Guilty of a Misdemeanor, and, on conviction,

MEMOR

Sha

CER

For

A L

Cer

Reg

MERGE

OF

Re

Re

MISDE

Re

MEMORIAL *continued.*

Shall Forfeit his Office, and be liable to a fine, in the discretion of the court, not exceeding one hundred pounds 18 V. c. 127, s. 6.

CERTIFICATE OF SHERIFF, of execution of deed to purchaser, or sale by him for non-payment of taxes, under his hand and seal, *For the Purpose of Registration*, shall be deemed to operate as

A Memorial thereof, and the deed shall be registered and

Certificate of the Registry thereof granted by the registrar, on production to him of the deed and certificate, and without further proof, and

Registrar shall, for the registry and certificate thereof, be entitled to 3s. 6d., and no more 16 V. c. 182, s. 65.

MERGER

OF MORTGAGE DEBT, not to be as against any subsequent mortgagee or

Registered Judgment Creditor of the same property, by

Release of Equity of Redemption to mortgagee or his assignee, or by purchase of equity of redemption in property under any power of sale in his mortgage, or any judgment or decree

14, 15 V. c. 45, s. 1.

MISDEMEANOR

Registrar guilty of, who refuses, on detachment of city, &c., from his county, to deliver original memorials, &c., under this act, and maps, &c., under 16 V. c. 187, to registrar of county to which city, &c., attached, and on conviction, shall forfeit his office, and be

127, s. 5.

MISDEMEANOR *continued.*

liable to a fine, in discretion of the court,
not exceeding one hundred pounds 18 V. c. 127, s. 6.

MORTGAGE

DISCHARGE OF ANY REGISTERED MORTGAGE to
be entered by registrar as "discharged," on
receipt of certificate in form schedule A. to
act 9 V. c. 34, s. 23.

CERTIFICATE, EXECUTED IN LOWER CANADA, OF
PAYMENT OF MORTGAGE MONEY, affidavit
of execution before whom to be taken 13, 14 V. c. 63, s. 5.

EXECUTOR OR ADMINISTRATOR OF DECEASED
MORTGAGEE, when entitled to mortgage
money, may, on payment, &c.,
Convey, Release and Discharge debt and legal
estate in lands as to whole or part. 14, 15 V. c. 7, s. 8.

MORTGAGEE

IN FORECLOSURE BILL, judgment creditor not a
necessary party to,
Unless Judgment Registered in registry office of
county where lands are situate,
Before the Filing of the bill 18 V. c. 127, s. 2.

RIGHTS OF EQUITABLE MORTGAGEES as now
recognised in Court of Chancery in pro-
vince, not to be affected by..... 13, 14 V. c. 63, s. 3.

TO GIVE PURCHASER OF MORTGAGOR'S INTEREST
in real estate, under execution, on
Payment of Mortgage Money to him, if required,
A Certificate of Payment and satisfaction of
mortgage in form schedule A. to act.
Registrars to act on certificate to the same ex-
tent as if the same had been given by the
mortgagor, his heirs, &c..... 12 V, c. 73, s. 2.

EXECUTOR OR ADMINISTRATOR OF DECEASED
MORTGAGEE, when entitled to the money

MORTG.

On

To

The

The

Pay

Arr

Suo

OF

A

Pu

W

Re

PR

MORTGAGEE *continued.*

secured by the mortgage, or who shall have assented to a bequest thereof, or shall have assigned the mortgage debt, such executor or administrator shall have power,

On Payment of the Principal Money and interest due on the mortgage, or if the mortgage money shall have been paid to the testator or intestate in his lifetime,

To Convey, Release and Discharge the said mortgage debt, and

The Legal Estate in the Land, and such executor or administrator shall also have

The same Power as to any Portion of the lands on *Payment of some Part* of the mortgage debt, or on any

Arrangement for Exonerating the Whole or Part of the mortgaged lands without payment of money, and

Such Conveyance, Release or Discharge shall be as effectual as if the same had been made by any person having the legal estate

14, 15 V. c. 7, s. 8.

OF FREEHOLD OR LEASEHOLD PROPERTY, or his assignee, may take and receive from mortgagor or his assignee

A Release of the Equity of Redemption in such property, or to

Purchase the same under any power of sale in his mortgage, or any judgment or decree, *Without thereby Merging* the mortgage debt as against any subsequent mortgagee or

Registered Judgment Creditor of the same property

14, 15 V. c. 45, s. 1.

PRIORITY OF CLAIM which any mortgagee or judgment creditor shall or may have or be entitled to, under any act in force relating to the

127, s. 6.

34, s. 23.

c. 63, s. 5.

c. 7, s. 8.

127, s. 2.

c. 63, s. 3.

c. 73, s. 2.

MORTGAGEE *continued.*

Registry of Titles to Land, this act shall not be construed to affect 14, 15 V. c. 45, s. 8.

AFTER ANY MEMORIAL IS ON THE REGISTER, who registers a memorial of his mortgage deed, prior to the registration of a deed of earlier date than his own, such non-registered deed of earlier date adjudged fraudulent and void against mortgagee for valuable consideration.

First Mortgagee to register memorial of further mortgage to him (whether legal or equitable), or it will not prevail against a second mortgagee of the same lands.

Second Mortgagee of lands or part of, included in first mortgage, not to be affected by further mortgage to first mortgagee, if further mortgage not registered 9 V. c. 34, s. 6.

SUBSEQUENT CROWN DEBTS not to be valid against, unless a copy of the security to the Crown, certified by the proper officer having the custody of the same, shall be registered in the office of the clerk of the Queen's Bench, in Toronto, before the execution of the deed, &c., of such subsequent mortgagee 14, 15 V. c. 9, s. 1.

SUBSEQUENT TO DEED, &c., TO HER MAJESTY, creating Crown debt, discharged from, unless such deed, &c., is registered, as in the second section mentioned, within one year from passing of act, (2nd August, 1851)... 14, 15 V. c. 9, s. 5.

MORTGAGOR

THE WORD "MORTGAGOR" has been substituted for "mortgagee," in the last line of the proviso at the end of section 24 of 9 V. c. 34, in error.

Section 24 of 9 V. c. 34, refers to what, and the

MORTGA

PURC

A Ce

Certij

Regis

MUNICI

LIAB

NOTARY

ASSI

NOTICE

NOT

MORTGAGOR *continued.*

c. 45, s. 3. true effect of proviso at the end of it declared10, 11 V. c. 16, s. 1, 2.

PURCHASER OF INTEREST OF, IN REAL ESTATE, UNDER EXECUTION, on payment of the mortgage money to the mortgagee, his heirs or assigns, shall, if required, give to the purchaser, &c.,

A Certificate of Payment or satisfaction of such mortgage, or of the performance of the condition of the same, which may be in the form and to the effect of schedule A. to act, and which

Certificate shall be of the like effect, and shall be acted upon by all

Registrars and others to the same extent as if the same had been given to the mortgagor, his heirs, &c..... 12 V. c. 73, s. 2.

MUNICIPALITY OF COUNTY

LIABLE TO PAY REGISTRAR cost incurred by him for registry books, which treasurer of county refuses or neglects to supply him with 16 V. c. 187, s. 3.

NOTARY

ASSIGNMENT OF CROWN LAND LOCATIONS, executed before notaries in Lower Canada, when sufficient for registration by Commissioner of Crown Lands 16 V. c. 159, s. 8.

NOTICE

NOTHING HEREIN CONTAINED deemed or taken to alter or affect any doctrine of courts of equity, whereby protection is given to purchasers, for valuable consideration, without notice 13, 14 V. c. 63, s. 2.

NOTICE *continued.*

IN EQUITY, REGISTRATION OF DEED, conveyance; will or judgment, registered under 9 V. c. 34, or this act, affecting any lands, to be notice to all persons claiming any interest in such lands or tenements subsequent to such registry 18, 14 V. c. 63, s. 8.

FILING OF ANY BILL, or taking any proceedings in Chancery, in Upper Canada, in which any

Title or interest in Lands may be brought in question,

Not to be Notice unless and until a certificate shall be given by the

Registrar of the Court of Chancery to some person demanding the same, in the following form: "I certify that in a suit or proceeding in Chancery, between A. B. and C. D., some title or interest is called in question in the following lands, (stating them),"

And Registered in the registry office of the county, &c., in which the lands are situate, the title or interest in which is questioned in such bill or proceeding 18 V. c. 127, s. 3.

OATH

PARTY FORSWEARING himself before registrar, &c., authorised to administer, incurs same penalties on conviction, as if the oath had been taken in any court of record in this province 9 V. c. 34, s. 17.

OF OFFICE, registrar to take, before entering on execution of duties 9 V. c. 34, s. 25.

DEPUTY REGISTRAR to take 9 V. c. 34, s. 26.

PATENT

ASSIGNMENTS BY ORIGINAL NOMINEE OF CROWN

PATENT

PENALTY

Two

Rec

POWER

ME

Re

Fe

M

O

PRIOR

O

L

PATENT *continued.*

LANDS, &c., duly registered may issue in the name of assignee, &c. (See "Commissioner of Crown Lands") 16 V. c. 159, s. 7.

PENALTY

TWO POUNDS TEN SHILLINGS for refusing or neglecting to make and deposit a map or plan of site of town or village in registry office where situate, within one year from passing of act, (30th May, 1849,) and the like sum for every year thereafter.
Recovery and application of 12 V. c. 35, s. 42.

POWER OF ATTORNEY

MEMORIAL OF FROM GRANTOR or grantors where deed executed under letter or power of attorney, may be
Registered in the same manner and on the same evidence as a memorial of a deed or conveyance is now legally registered.
Fees for Recording, registrar allowed the same as for deed 16 V. c. 187, s. 7.

MEMORIAL OF, relating to lands in Upper Canada, but executed or published without Upper Canada,
On what Evidence to be registered 18 V. c. 127, s. 5.

PRIORITY

OF REGISTERING judgments to be taken, to be valid and effectual according to 13, 14 V. c. 63, s. 2.

DEED EXECUTED AFTER JANUARY 1ST, 1851, of which memorial duly registered, deemed good in law and equity,
According to Priority of time of registration of memorial 13, 14 V. c. 63, s. 4.

WHERE NO MEMORIAL REGISTERED of deed exe-

c. 63, s. 8.

. 127, s. 3.

. 34, s. 17.

34, s. 25.

34, s. 26.

PRIORITY *continued.*

cuted after January 1st, 1851, then deed deemed good in law and equity,

According to Priority of time of execution 18, 14 V. c. 63, s. 4.

MORTGAGEE HAVING ANY PRIORITY OR CLAIM under any act in force relating to the

Registry of Titles to Land, this act shall not be construed to affect 14, 15 V. c. 45, s. 3.

PUNISHMENT

FORSWEARING BEFORE REGISTRAR, &c., or person authorised to administer oath, the same punishment, on conviction of, as where oath taken in any court of record in the Province

9 V. c. 34, s. 17.

REGISTRAR OR DEPUTY COMMITTING or allowing *Fraudulent Practice* in execution of duties, to *Forfeit Office, and Liable to Pay* treble damages to party injured

9 V. c. 34, s. 21.

PURCHASER

OF MORTGAGOR'S INTEREST IN REAL ESTATE under execution may, on payment of mortgage money,

Require Mortgagee, his heirs or assigns, to give him

A Certificate of Payment or satisfaction of mortgage in form Schedule A. to act.

Registrars to act on certificate to the same extent as if the same had been given by the mortgagor, his heirs, &c.....

12 V. c. 73, s. 2.

PURCHASER FOR VALUABLE CONSIDERATION

AFTER ANY MEMORIAL IS ON THE REGISTRY, who registers a memorial of his purchase deed prior to the registration of a deed of earlier date than his own, such non-registered deed

PURCH.

EQU

SUB

SUE

Dis

QUART
GR

GR

GR

RAILV
R

PURCHASER FOR VALUABLE CONSIDERATION *continued.*

- 63, s. 4. of earlier date adjudged fraudulent and void against..... 9 V. c. 34, s. 6.
- EQUITY, DOCTRINE OF, whereby protection is given to, not altered or affected by act 13, 14 V. c. 63, s. 2.
- 45, s. 3. SUBSEQUENT PURCHASER FOR VALUABLE CONSIDERATION, Crown debts not to be valid against, unless a copy of the security to the Crown, certified by the proper officer having the custody of the same, shall be registered in the office of the Clerk of Q. B. in Toronto before the execution of the deed, &c., of such subsequent purchaser 14, 15 V. c. 9, s. 1.
- 34, s. 17. SUBSEQUENT TO DEED TO H. M. creating Crown debt,
Discharged therefrom, unless such deed, &c., is registered, as in the second section mentioned, within one year from passing of act (2nd August, 1851)..... 14, 15 V. c. 9, s. 5.
- 34, s. 21.

QUARTER SESSIONS

- GRANTEE, &c., where witnesses to any deed, conveyance, or will are dead or permanently resident out of province, may prove before justices at, due execution of instrument, &c., chairman giving certificate, &c., warrants registrar to record deed, &c. 9 V. c. 34, s. 11.
- 73, s. 2. GRAND JURY OF, may present registrar for not keeping his office where appointed, &c..... 9 V. c. 34, s. 19.
- GRAND JURY OF, may present registrar for ceasing to reside in the limits of the county for which he is appointed, or for becoming wholly incapable of discharging duties by sickness or otherwise 9 V. c. 34, s. 20.

RAILWAY AND OTHER COMPANIES

REGISTRATION OF DEEDS TO (see the special acts

RAILWAY AND OTHER COMPANIES *continued.*

of incorporation, whereby registrars are generally authorised to enter them, on production and proof of execution, without any memorial)

REAL ESTATE

Deeds of, made and executed by or in favour of the corporation named "The Connexional Society of the Wesleyan Methodist Church in Canada" (except leases for a term not exceeding nine years),

Shall be duly Registered within twelve calendar months after the making and execution thereof, otherwise void and of no effect..... 14, 15 V. c. 142, s. 5.

DECREES OR ORDERS IN CHANCERY, registration of, in order to bind (see "Chancery") 20 V. c. 56, s. 10.

SALE OF, for satisfaction of charge on, created by a registered decree or order (see "Chancery") 20 V. c. 56, s. 12.

TITLE TO REAL ESTATE INCLUDED IN DEED TO TRUSTEES OF RELIGIOUS SOCIETY gained by reason of their omission to register in due time, not to be affected by act, but to be taken as if act had not passed 16 V. c. 126, s. 1.

RECOGNIZANCE

REGISTRAR TO GIVE, in £1,000 to H. M. for due performance of duties of office ;

To be taken before three or more justices of the peace of the county ;

To be transmitted within six months into the Court of Queen's Bench in Upper Canada, to remain amongst the records 9 V. c. 34, s. 26.

VOID AT THE END OF ONE YEAR from death of registrar or surrender of office, when no misbehaviour appears to have been committed by him in the execution of his office 9 V. c. 34, s. 28.

RECON
To M

Of I

REGIST
OF

BA

Ba

FR

By

RECONVEYANCE

- To MORTGAGOR, certificate by mortgagee of payment, &c., under 35 Geo. III. c. 5, and of discharge under this act, to operate as a release and reconveyance 9 V. c. 34, s. 24.
- OF LEGAL ESTATE IN LAND MORTGAGED, executor of deceased mortgagee entitled to the mortgage money, may, on payment of the whole or part of mortgage debt, convey, release, and discharge debt, and convey the legal estate in the whole or part of land, or without payment, on arrangement to exonerate the whole or part of the land from the debt 14 & 15 V. c. 7, s. 8.

142, s. 5.

56, s. 10.

56, s. 12.

126, s. 1.

REGISTRATION

- OF SHERIFF'S DEEDS OF SALE FOR TAXES before 1851 are to be registered under 6 Geo. IV. c. 7, notwithstanding the repeal of that act by 13 & 14 Vic. c. 66, as the subsequent statute 16 Vic. c. 182 made the provisions of the repealed act applicable to deeds of sale for taxes prior to 1851 6 G. IV. c. 7, s. 19 & 20.

BARGAIN AND SALE DOES NOT REQUIRE registration to supply place of enrolment for mere purpose of making it a valid conveyance for passing the land.

Bargain and Sale needs registration in register of county where lands situate, to guard against subsequent purchaser obtaining title by prior registry..... 4 W. IV. c. 1, s. 47.

34, s. 26.

FROM AND AFTER THE CONFIRMATION of any lands to any person or persons

By Grant from the Crown, a Memorial of all deeds and conveyances which shall be made and executed, and of all wills and devises in writing made or to be made and published,

34, s. 28.

REGISTRATION *continued.*

when the devisor or testator shall die, after making and publishing of the same, of or concerning, and whereby any lands, tenements, or hereditaments in any county or riding in Upper Canada may be in anywise affected in law or equity,

May be Registered, at the election of the party or parties concerned.

After any Memorial is so registered,

Every Deed and Conveyance that shall be made and executed of the lands, tenements, or hereditaments, or any part thereof, comprised or contained in any such memorial, shall be adjudged

Fraudulent and void against any

Subsequent Purchaser or Mortgagee for valuable consideration,

Unless a Memorial be Registered, as by the act is directed.

Before the Registering of the Memorial of the deed or conveyance under which such subsequent purchaser or mortgagee shall claim,

Every Devise by Will of the lands, tenements, or hereditaments, or of any part thereof mentioned and

Contained in any Memorial Registered as aforesaid, and that shall be made and published after the registering of such memorial, shall be adjudged

Fraudulent and void against a

Subsequent Purchaser or Mortgagee for valuable consideration,

Unless a Memorial of such Will be registered, as by the act is directed.

A Memorial of any further Mortgage or mortgages, whether legal or equitable, to

A first Mortgagee or mortgagees,

REGIS

Sh

Ag

OF

Af

Su

In

In

In

A

O

S

T

W

O

R

E

C

REGISTRATION *contin.*

Shall in like manner be Registered before it can
or shall prevail

Against a second Mortgagee of the whole or any
part of the lands, tenements, hereditaments,
and premises included in the first mortgage,

9 V. c. 34, s. 6.

OF MEMORIAL OF DEED OR WILL EXECUTED,
&c., WITHOUT THE LIMITS OF UPPER CANA-
DA, to be on

Affidavit or Declaration in writing, where decla-
ration substituted for affidavit,

Sworn, in Great Britain or Ireland, before the
mayor or chief magistrate of any city, &c.,
under the common seal of such city, &c. ;

In Lower Canada, before the chief justice or
judge of any court of Q. B. in Lower Canada ;

In any Colony belonging to the Crown of Great
Britain, before the judge of the Supreme
Court ;

In any Foreign Country, before the mayor of
any city, &c., or any consul or vice-consul of
H. M. resident therein :

Affidavit or Declaration to be brought to the
registrar or his deputy wherein

One of Witnesses to the execution of such deed
or will, &c., shall

Swear to the execution of the same as therein-
before provided, and also

To the Place where executed ; and in case of
Wills, to the making and publishing.

On production of Will or probate, with affidavit,
registrar or deputy shall

Record the same and file the affidavit, and shall
Endorse a Certificate on the deed, conveyance,
will, or probate, which

Certificate to have same effect as if the affidavit
had been made before the registrar or deputy ;

REGISTRATION *continued.*

Such Memorial not to be Registered, unless the deed, will, &c., is

Identified as that referred to in such affidavit or affirmation by a

Certificate thereof under the hand of such judge or commissioner, or other person before whom the affidavit was made or taken,

To be endorsed by registrar on such deed, will, &c.

9 V. c. 34, s. 10.

ON CERTIFICATE OF CHAIRMAN OF QUARTER SESSIONS (witnesses to deed, &c., being dead or permanently resident out of province) of the execution of any deed, will, &c., witnessed by Clerk of the Peace, that majority of magistrates present were satisfied with proof adduced by grantee, &c., of execution of said instrument, registrar or deputy to record said deed, &c., with said certificate, and to certify same, which certificate shall have like effect as the certificate to be granted in all other cases

9 V. c. 34, s. 11.

OF WILLS OR PROBATES WITHIN TWELVE MONTHS from death of testator, &c., to be valid and effectual against subsequent purchasers as if recorded immediately after death.

Time for Registration extended, where will contested, or other inevitable difficulty,

To within Twelve Months from attainment of will or probate, or the removal of the impediment.....

9 V. c. 34, s. 12.

OF JUDGMENT, registrar of county wherein lands lie belonging to the party against whom entered, to register on receipt of certificate under signature of clerk and seal of court.

To affect and bind Lands from date of recording of judgment in county wherein the lands, &c., lie.....

9 V. c. 34, s. 13.

REGIST

FEE

SEA

Suff

ON I

OF I

REG

OF

Pur

Reg

OF

AF

Ev

Af

Ld

Fr

REGISTRATION *continued.*

- FEEs OF REGISTRATION to be paid previously to,
or registrar or deputy not compelled to
register any deed, conveyance, will, or other
instrument 9 V. c. 34, s. 27.
- SEAL OF ANY CORPORATION affixed to any deed,
conveyance, memorial, or instrument in
writing, to be
- Sufficient Evidence of the due Execution* of such
deed, &c., by such corporation for the pur-
pose of registration..... 9 V. c. 34, s. 29.
- ON DIVISION OF COUNTY, &c., duties of registrar,
OF MAP OR PLAN OF SITE OF TOWN OR VILLAGE,
to be made and deposited by owner, agent,
or representative, in registry office of county
where situate, within one year from passing
of act (30th May, 1849) 9 V. c. 34, s. 32.
- REGISTRAR'S DUTIES as to..... 12 V. c. 35, s. 42.
12 V. c. 35, s. 43.
- OF CERTIFICATE OF PAYMENT and satisfaction of
mortgage given to
- Purchaser of Mortgagor's interest* in real estate
sold under execution,
- Registrars* to act on certificate to the same extent
as if the same had been given by the mort-
gagor, his heirs, &c..... 12 V. c. 73, s. 2.
- OF CERTIFICATE OF JUDGMENT, makes it a charge
on lands, &c., in county where certificate
registered..... 13, 14 V. c. 63, s. 2.
- AFTER ANY GRANT FROM THE CROWN and deed
patent thereof issued,
- Every Deed, Devise or other Conveyance* which
shall be executed at any time
- After January 1st, 1851*, whereby any lands,
&c., in Upper Canada, may in anywise be
affected in
- Law or Equity*, shall be adjudged
- Fraudulent and Void*, not only against any sub-

34, s. 10.

34, s. 11.

34, s. 12.

34, s. 13.

REGISTRATION *continued.*

- sequent purchaser or mortgagee for valuable consideration, but also
 - Against a Subsequent Judgment Creditor*, who shall have registered a certificate of his judgment,
 - Unless such Memorial* be registered as by the 9 V. c. 34, is specified,
 - Before the Registering of the Memorial* of the deed, devise or conveyance, or the certificate of the judgment, under which such subsequent purchaser, mortgagee or judgment creditor shall claim,
 - Subject, as to Devisees*, to the provisions of the 12 section of 9 V. c. 34 13, 14 V. c. 63, s. 3.
- MEMORIAL OF DEED executed after January 1st, 1851, registered, and
- Certificate of Judgment* received after January 1st, 1851, registered,
- Deemed and Taken as good* and effectual in law and equity,
- According to Priority* of time of registering such memorial or certificate.
- Where no Memorial* registered, then according to priority of time of execution 13, 14 V. c. 63, s. 4.
- OF ANY CERTIFICATE OF JUDGMENT, taken to be a registry of such judgment for purposes of act 13, 14 V. c. 63, s. 7.
- TO BE NOTICE IN EQUITY of deed, conveyance, will, or judgment registered under 9 Vic. c. 34, or this act, affecting any lands,
- To all Persons claiming any Interest* in such lands or tenements
- Subsequent to such registry* 13, 14 V. c. 63, s. 8.
- OF CERTIFICATES OF JUDGMENT, registrar to enter in a separate book after passing of act (10th August, 1850) 13, 14 V. c. 63, s. 9.

REGIST

OF

OF

Cle

On

Cer

Fro

Sha

ORI

Sha

Cer

Cle

En

As

Rel

FE

REGISTRATION *continued.*

OF COPY OF DEED, &c., UNDER WHICH CROWN DEBT IS CREATED, certified by the proper officer having the custody of the same, to be made in the office of Clerk of the Q. B. in Toronto before the execution of a deed under which subsequent purchaser or mortgagee claims, or before the registry of a subsequent judgment, in order to be valid and effectual against the same..... 14, 15 V. c. 9, s. 1.

OF DEED, bond, contract, or instrument creating Crown debt,
Clerk of Queen's Bench in Toronto required to enter and make, in a separate book,
 63, s. 3. *On production of a Copy* of such deed, bond, contract, &c.,
Certified by the proper officer having the custody of the same; and
From and after Registry, the Lands of the person executing the deed, &c.,
Shall be bound and charged thereby..... 14, 15 V. c. 9, s. 2.

ORDER OF GOVERNOR IN COUNCIL (produced to clerk of Queen's Bench) that any lands bound by such deed, &c.,
 63, s. 4. *Shall be released* from the charge created thereby,
Certified by the President or Clerk of the Executive Council;
 63, s. 7. *Clerk of Queen's Bench* to
Enter and Register the same in the said book,
As a Release of such Lands as shall be mentioned in such order, and same
Released accordingly, upon being so entered and registered..... 14, 15 V. c. 9, s. 3.

FEE OF FIVE SHILLINGS for, may be demanded and received by clerk of Queen's Bench for registering any such deed, &c., creating or releasing Crown debts to be paid to the fee fund..... 14, 15 V. c. 9, s. 4.

63, s. 8.

63, s. 9.

REGISTRATION *continued.*

OMISSION TO REGISTER all such deeds, &c.
(creating Crown debts),

Made before the passing of this Act to H. M.,
or predecessors, of the nature mentioned in
the first section of act, and in the manner
in the second section mentioned,

Within One Year from the passing of this act,
(2nd August, 1851.)

Any Lands or Interest in Lands of the person
who shall have executed the same

Shall be Freed or Discharged therefrom as to
any

Subsequent Purchaser or mortgagee or registered
judgment creditor of such person for valu-
able consideration 14, 15 V. c. 9, s. 5.

PRIORITY OF CLAIM which any mortgagee or
judgment creditor shall or may have or be
entitled to under any act in force relating to
the

Registry of Titles to Land, this act shall not be
construed to affect 14, 15 V. c. 45, s. 3.

DEED OF REAL ESTATE, made and executed by or
in favour of the corporation named,

“*The Connexional Society* of the Wesleyan
Methodist Church in Canada,” (except
leases for a term not exceeding nine years,)

Shall be duly Registered within twelve calendar
months after the making and execution
thereof, otherwise void and of no effect.

No greater Effect Given by Act in other respects
to the registration of any such deed within
the said term of twelve months than is by
law given to the registration of any other
deed of real estate in Upper Canada..... 14, 15 V. c. 142, s. 5.

OF SHERIFF'S DEED OF LAND SOLD FOR TAXES
before January 1st, 1851, to be made by

REGIST

WH

Det

The

An

Sha

To

To

Sta

Sh

Wh

Di

In

On

Co

In

REGISTRATION *continued.*

registrar according to act 6 Geo. 4 c. 7.,
notwithstanding its repeal by 13, 14 V.
c. 66.....

16 V. c. 182, s. 66.

WHEN FOR PURPOSES OF REGISTRATION, a city,
town, township or place is

Detached from a County, and attached to some
other county,

The Registry Books kept therefor, under the
22nd section of the 9 V. c. 34.

And all Plans or Maps of Town or Village Lots
therein, lodged in the office of such registrar,
pursuant to the 33rd section of the said act,

Shall be delivered by the registrar of the county
from which such city, &c., is detached

To the Registrar of the county to which the
same is attached.

To be Kept by him among the registry books of
his office, and dealt with as registry books
originally made and kept therein.

Statement of Titles of Lands lying in such city,
&c. as may have been registered before
separate registry books were kept for each
township or place, under the authority of
the said act

Shall be Furnished by the registrar of the county.

WHEN ANY DEED, will or other instrument shall
embrace

Different Lots or parcels of land, situate

In Different Localities in the same county, it
shall only be necessary to furnish

One Memorial of such deed, &c., and such me-
morial shall be

Copied into the Registry Book for the city, town,
township or place in which the different
parcels of land are situate,

In the same Manner and to the same extent only

c. 9, s. 5.

c. 45, s. 3.

142, s. 5.

REGISTRATION *continued.*

As if a Separate Memorial had been furnished in relation to the lands situate within such city, &c., and

The Registrar shall make the necessary entries and certificates accordingly.

Only One Certificate of Registry Allowed or charged for, and that in counting folios to be charged for, the marginal certificates, notes or references should not be included...

16 V. c. 187, s. 5.

THE 9TH SECTION OF 9 V. c. 34 repealed.

A Memorial of any such Deeds, conveyances, wills or probate as shall be made and executed or published in any place

Within Upper Canada, other than the county in which the lands mentioned therein lie, *Shall be Entered and Registered* by the registrar or his deputy,

Provided an Affidavit Sworn before one of the judges of the superior courts of common law or equity in Upper Canada, or a judge of any county court within his county, or a commissioner in the Queen's Bench or Common Pleas in Upper Canada, be brought to the registrar or his deputy, wherein

One of the Witnesses to the execution of such deed or conveyance

Shall Swear to the execution of the same, as also of the memorial thereof, and to the place where the same were executed, and

In case of Wills, one of the Witnesses to the memorial of such will or probate thereof

Shall Swear to the execution of such memorial
REGISTRAR THEREUPON OR HIS DEPUTY to give the party who brings such deed, &c., and affidavit,

16 V. c. 187, s. 6.

A Certificate of the Registering of the same,

REGIS'

All

OF

Pos

A

In

Reg

OF

OF

Sha

On

OF

2

REGISTRATION *continued.*

which, signed by the registrar or deputy, shall be taken and

Allowed as Evidence of the Registry of the same, in all courts of record in Upper Canada, notwithstanding any thing in 9 V. c. 34.....

16 V. c. 187. s. 6.

OF DEED OR CONVEYANCE AFTER PASSING OF ACT, (14th June, 1853,) executed under and by virtue of

Power of Attorney from the grantor or grantors, *A Memorial of such Letter* or power of attorney may be registered

In the same Manner and on the same evidence as a memorial of a deed or conveyance is now legally registered.

Registrar allowed the same Fees for recording the same, as for a deed or conveyance under this act.....

16 V. c. 187, s. 7.

OF JUDGMENT OF ANY COURT OF RECORD in Upper Canada, to be made in the manner now required by law before the judgment shall create a lien or charge on any lands, or interest in lands, now or hereafter liable to seizure or sale on execution

18 V. c. 127, s. 1.

OF DECREE OF FORECLOSURE AND EVERY DECREE of Court of Chancery affecting any title or interest in land,

Shall and may be registered by any person in the county registry office in the county where the land is situate,

On a Certificate to be given by the Registrar of the Court of Chancery, stating the substance and effect of such decree, and the lands affected thereby

18 V. c. 127, s. 4.

OF THE MEMORIAL OF ANY DEED, conveyance, will, or power of attorney affecting or rela-

187, s. 5.

187, s. 6.

REGISTRATION *continued.*

ting to any lands, &c., in Upper Canada
which shall have been or may be hereafter
Executed or published in any place

Without Upper Canada,

*Shall be made by the registrar or his deputy of
any county in which such lands are situate,
Either on the Evidence already required by law, or
On an Affidavit sworn before any judge of either
of the superior courts of common law or
equity in Upper or Lower Canada, or before
any judge of the County Court in Upper
Canada, or Circuit Court in Lower Canada,
or a commissioner authorised to take affida-
vits in Upper or Lower Canada by any of
the superior courts of common law, or the
registrar or deputy registrar of the county
wherein which such lands are situate*

*One of the Witnesses to the execution of such
deed, will, conveyance, or power of attorney
shall*

*Swear to the execution of the same, and also to
the place where the same was executed:.....*

18 V. c. 127, s. 5.

OF CERTIFICATE OF JUDGMENT given by Deputy
Clerk of the Crown

May be Registered in the registry office of any
county in Upper Canada, and the

Certificate and Registration thereof shall have
the like force and effect in binding or oper-
ating as

*A Charge upon Lands, tenements, and heredita-
ments situated within such county as if the
certificate had been granted at the principal
office at Toronto*

19 V. c. 43, s. 15.

OF CERTIFICATE OF JUDGMENT given by
Clerk of County Court

May be Registered in the registry office of any
county in Upper Canada, and the same

REGISTRATION *continued.*

Certificate and Registration thereof shall have the same force and effect in binding or operating as a

Charge on Lands, &c., situate within such county as if the certificate had been granted by a Clerk or deputy Clerk of the Crown..... 19, 20 V. c. 90, s. 7.

CERTIFICATE OF BILL OR PROCEEDING IN CHANCERY may be given by deputy registrar of the court when the bill, &c., is filed in his office, and the registration of his certificate shall have the same effect as the registration of a like certificate by the registrar of the said court..... 20 V. c. 56, s. 9.

EVERY DECREE OR ORDER OF THE COURT OF CHANCERY which has already been or shall hereafter (10th June, 1857) be made, whereby any sum of money, or any costs, charges, or expenses, shall be ordered to be paid, either at one time or in several or periodical payments or sums, to any person or persons, or into the said court, or otherwise,

May be Registered in any county registry office, *Upon delivery* to the county registrar

Of a Certificate of the Registrar, or of a deputy registrar of the said court, stating the title of the cause or matter in which such decree or order shall have been made, and the date of the decree or order, and the amount of the moneys thereby, or by any report made in pursuance thereof, mentioned to be paid; and

Such Certificate shall be entered and recorded by such county registrar

In the same books and in the same manner as certificates of judgments at law are now entered and recorded, and

127, s. 5.

43, s. 15.

REGISTRATION *continued.*

The Registry of any such Certificate shall have to all intents and purposes

The same effect as the registry of a judgment at law now has, and

May be Discharged in the same manner as a judgment at common law

20 V. c. 56, s. 10.

CHARGE CREATED BY DECREE OR ORDER IN CHANCERY may be by court

Confined to a part of the Land of person liable On proof to Court that a specified part of real estate will be sufficient security

When Registration shall not affect the Residue of his real estate ; and

In case Original Decree or Order contains such restriction,

The Certificate of the Registrar or deputy registrar of the court shall state the same, and

If contained in Subsequent Order, the registrar's or deputy registrar's certificate thereof may be registered by either party.....

20 V. c. 56, s. 11.

EFFECTED OF DECREE OR ORDER IN CHANCERY for payment of money, so as to become a charge on real estate.

Court of Chancery in any proceedings in the same cause may order the whole or any part of the real estate bound

To be Sold for the Satisfaction of the money so charged upon it with interest and costs...

20 V. c. 56, s. 12.

OF JUDGMENT, to bind land only three years from registration, or one year from passing of act (10th June, 1857), unless registered, (See "Re-registration").....

20 V. c. 57, s. 19.

DISCHARGE OF JUDGMENT REGISTERED AGAINST LAND may be from the registry of the county where the same is registered on the

REGIS

P

C

P

A

P

C

E

A

C

V

T

T

REGISTRATION *continued.*

Production to the Registrar of such county of a Certificate signed by the Judgment Creditor, or if more than one by any one of them, his executors, administrators or assigns to the effect of the form given in the section.

Proof of such Certificate to the registrar shall be by the

Affidavit of one Subscribing Witness who has witnessed the execution of such certificate, which may be taken before any person before whom the registry of any deed or other instrument can be taken.

Proviso, that Registry of Judgment may also be discharged in the manner now provided by law

20 V. c. 57, s. 20.

COMMISSIONER OF CROWN LANDS to keep a book for the

Entry at the Option of the parties interested, of the particulars of

Assignments by the Original Nominee, purchaser or locatee, as also any subsequent assignee of any such claim on lands heretofore located, (14th June, 1853,) or hereafter purchased in respect thereof,

On Production of such Assignment to the Commissioner of Crown Lands,

With an Affidavit of the due Execution thereof, sworn before a justice of peace, truly expressing the time of the execution of such assignments, and thereupon

The Commissioner to Enter or Register the material parts of assignments, and

To Indorse a Certificate of the Entry or registration on every such assignment, which assignment so entered or registered, shall be

Valid against any one of a Previous Date or

56, s. 10.

56, s. 11.

56, s. 12.

57, s. 19.

REGISTRATION *continued.*

Execution, but not then entered or registered.

Such Assignment being duly Registered, it shall be lawful that

The Patent issue in the name of such assignee or assignees.

Subscribing Witness to the Assignment being Dead, or having left the province,

Registration of such assignment to be made on the production of

An Affidavit proving the death or absence of such witness, and his hand-writing.....

16 V. c. 159, s. 7.

DUTIES OF COMMISSIONER OF CROWN LANDS, under preceding section, for the registration of assignments of located claims,

To Extend to the Registration of Assignments of claims heretofore located or located hereafter.

All Assignments of such Locations in Lower Canada, executed before notaries, or before one notary and two witnesses, shall be deemed sufficient, and

Shall be Registered accordingly.

Unconditional, all such assignments to be.

Commissioners for taking Affidavits in superior courts of law, either in Upper or Lower Canada, shall have the same power and authority for

Administering Oaths in matters relating to the Crown, clergy and school lands, as are now exercised by justices of the peace

16 V. c. 159, s. 8.

BY TRUSTEES OF CERTAIN RELIGIOUS SOCIETIES, OF DEED under which they hold land in perpetual succession, for the site of a church, meeting house, chapel or burying ground, to be registered

REGISTRATION *continued.*

In Registrar's Office of county where the land lies,
Within Twelve Months after the execution of the
 deed 9 Geo. IV., c. 2, s. 3.

TRUSTEES OF RELIGIOUS SOCIETY, OR CONGREGATION OF CHRISTIANS, to whom is conveyed and to their successors in perpetual succession, land required for the site of a church, chapel, meeting house, burial ground and residence for their minister,

To Register the conveyance in the office of the registrar of the county where the land is situate, within twelve months after its execution 8 V. c. 15, s. 1, 2.

PERIOD FOR, OF DEEDS (TO RELIGIOUS SOCIETIES) heretofore executed for any of the uses, &c., of acts 9 Geo. IV., c. 2, and 8 Vic. c. 15,

Extended to within Twelve Months after the passing of this act, (30th May, 1849,) and declared to be as

Valid and Effectual as if the same had been registered within the time limited by said acts,

Except in so far as they may be affected by the *Prior Registration* of other deeds or instruments relating to the same lands

12 V. c. 91, s. 1.

PERIOD FOR REGISTRATION of deed heretofore executed for any of the uses, &c., of acts 9 Geo. IV., c. 2, 8 Vic., c. 15, and 12 Vic. c. 91,

Further Extended to within Twelve Months from passing of act, (23rd May, 1853,) and declared to be

As Valid and Effectual as if they had been registered within the time limited by either of said acts,

c. 159, s. 7.

c. 159, s. 8.

REGISTRATION *continued.*

Except in so far as they may be affected by the *Prior Registration* of other deeds or instruments relating to the same lands.

Any Person Claiming to hold Real Estate included in such deed, on account of

The Omission to Register the same in due time, and shall in virtue of such claim

Have taken Possession of such real estate before the passing of this act, (23rd May, 1853,) and have made improvements thereon, and also

In all Cases where the person claiming to hold or be entitled to such real property on account of such omission,

Shall have actually Sold or contracted to sell such real estate before the passing of this act, (23rd May, 1853,) no person being at that time in adverse possession of the same.

The Provisions of this Act shall not Extend to render invalid any right or title to such estate,

But such Right or Title shall be taken and adjudged to be as if this act had not been passed

16 V. c. 126, s. 1.

OF TITLES, each county entitled to return a member to parliament, shall be entitled to have a separate registry office for, and registrars appointed accordingly, but, until establishment,

All Deeds, Wills, Memorials or other instruments may be registered in the same offices and with the same effect as if this act had not been passed.....

16 V. c. 187, s. 4.

REGISTRAR

To RECORD CONVEYANCE BY SHERIFF of lands

REGIS

Ce
R.

A

A

F

E

C

J

-

C

-

REGISTRAR *continued.*

sold for taxes, (prior to 1851, see 16 Vic. c. 182, s. 66,) on

Certificate of sheriff, in place of a memorial.....6 Geo. IV., c. 7, s. 19.

RECEIVING SHERIFF'S CERTIFICATE, shall, on production of conveyance made under authority of act, enter on record

A *Transcript of such Conveyance*, which shall be deemed

A *Sufficient Registry* thereof, and for such entry and certificate thereof in the usual form,

Fee of 2s. 6d. to be paid to registrar, and no more.....6 Geo. IV., c. 7, s. 20.

ENTRIES, CERTIFICATES, REGISTRIES and other lawful acts of, or deputy, at any time before new commissions shall be issued under 9 V. c. 34, to have effect as if that act had never passed

9 V. c. 32.

OF COUNTY, APPOINTED BY GOVERNOR of province.

Death, Resignation, Removal or Forfeiture of, Governor to fill up vacancy.

Appointments of, to be under great seal of province.

Office of, place where to be held until otherwise ordered, to be named in commission

9 V. c. 34, s. 3.

IN EVERY COUNTY OF UPPER CANADA, to be appointed to be resident therein, to keep office where named in commission or proclamation.....

9 V. c. 34, s. 4.

DEPUTY REGISTRAR TO BE APPOINTED and removed by registrar when he thinks necessary.

Deputy Registrar to perform duties of office of registrar, on death, resignation, removal or forfeiture of office of... ..

9 V. c. 34, s. 5.

26, s. 1.

37, s. 4.

REGISTRAR *continued.*

DEED, WILL, OR PROBATE TO BE PRODUCED to registrar at time of entering memorial.

To Indorse Certificate on deed, &c., of day, hour and time when memorial is entered and registered, and of book, page and number where entered, and to sign, or deputy.

To Number pages of Register Books and memorials entered therein.

To Enter in margins of Register Books and memorial the day of the month and year, and hour or time of the day when memorial is registered.

To keep Alphabetical Calendar of the townships, &c., within the county, &c., with a reference to the number of every memorial that concerns the lands, &c., in every such township, &c., and of the names of the parties mentioned in the memorial.

To Enter or Register memorials in the same order that they shall respectively come to his hand

9 V. c. 34, s. 8.

TO REGISTER MEMORIAL of will or probate executed out of the limits of Upper Canada, on production of will or probate with affidavit of execution, &c.

To file Affidavit of execution.

To endorse a Certificate on the deed, will, &c., which certificate shall have the same effect as if the said affidavit had been made before the registrar or his deputy.

Not to Register the Memorial unless the deed, conveyance, will, or probate be

Identified as that referred to in the affidavit or affirmation by a

Certificate under the Hand of the judge or commissioner, or other person before whom the affidavit was made or taken

9 V. c. 34, s. 10.

REGISTRAR *continued.*

TO RECORD DEED, CONVEYANCE, OR WILL, on certificate of chairman of quarter sessions, witnessed by clerk of the peace, that majority of magistrates present were satisfied by proof adduced of the due execution of the instrument.

To record Certificate with same..... 9 V. c. 34, s. 11.

TO RECORD JUDGMENT on certificate with signature of clerk and under seal of court 9 V. c. 34, s. 13.

OFFICE HOURS between 10 a. m., and 3 p. m. on every day in the year (except Sunday, Christmas Day, and Good Friday);

To make Searches when required concerning all memorials theretofore registered, and deeds, wills, or judgments thereafter recorded.

To give Certificates of searches under his hand if required 9 V. c. 34, s. 15.

FORSWEARING before, or deputy, &c., or person authorised to administer oath in any of the cases aforesaid, on conviction liable to same penalties as if oath had been taken in any court of record in the province

9 V. c. 34, s. 17.

FIRE PROOF OFFICES AND VAULTS to be provided by, in every county within 18 months from passing of act (9 June, 1846.)

Neglecting to provide Office and Vault within the eighteen months, the county council to fix on site for office within the county, and provide office at expense of county, not exceeding £250, to be thenceforth used as a registry office for county.

Liable to Removal from Office at discretion of Governor on presentment by the grand jury at any court of general quarter sessions, for not keeping his office in place appointed in his commission, or by proclamation, or,

REGISTRAR *continued.*

- not having a fire proof office and vaults, or neglecting or refusing to remove to that provided for him..... 9 V. c. 34, s. 19.
- GOVERNOR MAY, ON PRESENTMENT by grand jury remove registrar from office, for non-residence in county, or for total incapacity to perform duties from sickness 9 V. c. 34, s. 20.
- OR DEPUTY, NEGLECTING DUTY, or committing or suffering any undue or fraudulent practice in execution of, on conviction, to forfeit office, and liable to pay treble damages with full costs of suit, to any person injured thereby, recoverable by action of debt, &c., in any H. M. courts of record.
- Deputy remaining in Office during vacancy by death, resignation or forfeiture of, registrar to be liable in same way.....* 9 V. c. 34, s. 21.
- TO KEEP A SEPARATE REGISTER BOOK for each township or reputed township, city or town of which the limits shall be defined by law within the county for which appointed 9 V. c. 34, s. 22.
- TO DISCHARGE REGISTERED JUDGMENT OR MORTGAGE on receipt of certificate in form schedule A. to act, in respect to mortgages, *With Affidavit of a Subscribing Witness* from the person entitled to the amount of mortgage, or his attorney, and in *Case of Judgments*, on receiving a satisfaction piece under the seal of the court in which entered, and signed by clerk, and write the word "discharged," and affix his name on the margin of the register wherein the judgment or mortgage is registered, which *Shall be deemed* a discharge thereof.
- To file Number and enter* certificate or satisfaction piece on the margin of the register under the word "discharged" 9 V. c. 34, s. 23.

REGIS

To

D

R

F

D

O

O

N

REGISTRAR *continued.*

- 34, s. 19.

TO TAKE AN OATH OF OFFICE before he enters on execution of it before two or more justices for county where he resides

9 V. c. 34, s. 25
- 34, s. 20.

DEPUTY REGISTRAR to take like oath.
Recognizance in £1,000 to be given by registrar, with two or more sufficient sureties, to be approved by three or more justices of county. conditioned for the true performance of duties

9 V. c. 34, s. 26.
- 34, s. 21.

FEE FOR REGISTRY (authorised by act,) to be paid previously to registrar or deputy being compelled to register any deed, conveyance, will or other instrument.....

DEATH OF, OR SURRENDER OF OFFICE by, recognizance given by, to be void at end of one year from death or surrender, if no misbehaviour appears to have been committed by him in his office

9 V. c. 34, s. 27.

9 V. c. 34, s. 28.
- 34, s. 22.

OF COUNTY OF WHICH A PORTION IS SEPARATED or set apart so as to form another county or a part thereof, to furnish a statement of the registration of such titles as may have been registered, of lands lying in the part so separated, to the registrars of the new county and of the county of which it shall form a part, setting forth the dates of the deeds and the particulars of the lots or parcels of lands to which they respectively relate

9 V. c. 34, s. 32.
- 34, s. 23.

ON RECEIPT OF PLAN OF TOWN OR VILLAGE LOTS, accompanied with a declaration, to keep thenceforth an index of the land described on such map or plan as a town or village, by the name by which such person, &c., shall designate the same.....

NO APPOINTMENT OF REGISTRAR to be made

9 V. c. 34, s. 33.

REGISTRAR *continued.*

- for the counties of Lennox and Addington, Prescott and Russell, and Lincoln and Welland, but
 - One* for the counties of Lennox and Addington,
 - One* for the counties of Prescott and Russell, and
 - One* for the counties of Lincoln and Welland...

9 V. c. 34, s. 34.
- OFFICE OF, VACANT in either of said united counties,

 - The Governor-General*, in his discretion, to divide the said counties in which any such vacancy may happen, and to
 - Appoint a Registrar* for each county respectively.....

9 V. c. 34, s. 34.
- CERTIFYING COPY OF MAP OR PLAN of town or village as correct, the copy shall be received as

 - Evidence* of the original plan and survey of such town, &c.....

12 V. c. 35, s. 42.
- ON DEPOSIT OF MAP OR PLAN of town or village in Upper Canada in the registry office of county where situate,

 - To make a Record* of the same, and enter the day and year on which deposited in his office.
 - Fees to, for such Service* the same as they are for the record of any other document, which is by law required to be entered of record.
 - To keep a Separate Book* for registering the title deeds of lands situate in such town or village, in the same manner as is by law required for registering of title deeds for lands situate in townships

12 V. c. 35, s. 43.
- ENTITLED TO FEE OF one shilling and six pence for filing document or plan prepared by land surveyor in Upper Canada, to be kept

REGIS

To

M
P

W

To

Fu

En

SE

Ta

REGISTRAR *continued.*

in registry office, to be produced in evidence
in any court of law or equity in Upper Ca-
nada..... 12 V. c. 35, s. 47.

To ACT ON CERTIFICATE OF PAYMENT and satis-
faction of mortgage money, given by

Mortgagee to

Purchaser of mortgagor's interest in real estate
under execution, to the same extent as if
the same had been given by the mortgagor,
his heirs, &c 12 V. c. 73, s. 2.

WHERE JUDGMENT SHALL HAVE BEEN REGISTER-
ED before passing of act (10th August, 1850)
on being required by party in whose favour
the same shall have been rendered, is to
mark on margin of register, and sign the
same, "Registered this day of
 A. D. eighteen ," and such
entry of registry to have same effect from
such date as if it had been registered under
this section 13, 14 V. c. 63, s. 1.

To KEEP SEPARATE BOOK of certificates of all
judgments brought to him for registration,
and prepare an alphabetical index thereto,
after passing of act, (10th August, 1850),... 13, 14 V. c. 63, s. 9

FURNISHING STATEMENTS of registration of
titles as may have been registered, of lands
lying in the part separated from county, to
registrar of new counties,

Entitled to Receive from, and be paid by the new
county, the sum of sixpence for every folio
of 100 words contained in any such state-
ments so furnished 14, 15 V. c. 5, s. 17.

SHALL REGISTER ANY SHERIFF'S deed of land
sold for

Taxes before the 1st January, 1851, according
to act 6 Geo. IV. c. 7, notwithstanding the

34, s. 34.

34, s. 34.

35, s. 42.

35, s. 43.

REGISTRAR *continued.*

repeal of said act by the act 13, 14 V. c. 66, intituled, "An act to repeal the acts and provisions of law relative to assessments and matters connected therewith in Upper Canada"

16 V. c. 182, s. 66.

OF COUNTY FROM WHICH CITY, town, &c., detached, to deliver maps and plans of village and town lots to registrar of county to which city, town, &c., attached.....

16 V. c. 187, s. 1.

STATEMENT BY, OF TITLES, in addition to requirements of 9 V. c. 34, s. 32, as to,

To Send to the Registrar of a new county, with an index as part thereof, and

To Compare such Statement with the original entries in the register books in his office, and

To Indorse a Certificate to that effect on such statement, when furnishing the same to the registrar of such new county,

And such Statement, in addition to the requirements of 9 V. c. 34, s. 32, shall contain

The Names of the Parties to such deeds, and the witnesses, and shall also contain

The same Particulars with regard to wills and other registered documents affecting lands in such new county as are required concerning deeds, and

Shall also Furnish a Statement of any wills registered in any general registry book, whether such book was procured before or since the passing of said act

16 V. c. 187, s. 2.

TREASURER OF COUNTY, after the passing of act, (14th June, 1853,) to supply with registry books;

Treasurer Refusing or neglecting to supply him within thirty days after application, the

REGIST

MEM

One

THE

To I

With

Prov

j

l

c

c

r

h

One c

c

Shall

a

l

In ca

r

Shall

a

To G

a

REGISTRAR *continued.*

registrar may provide the same and recover the cost from the municipality

16 V. c. 187, s. 3.

MEMORIAL TO BE COPIED IN REGISTRY BOOK, of deed, will or instrument embracing different lots of land in different localities in the same county, to the same extent as if a separate memorial of such deed, &c., had been furnished, &c.

One Certificate of Registry only shall be allowed and charged for, and in counting folios to be charged for, the marginal certificates, notes or references shall not be included...

16 V. c. 187, s. 5.

THE 9TH SECTION of 9 V. c. 84, repealed.

To Register Memorial of any such deeds, conveyances, wills or probate, as shall be made and executed or published in any place

Within Upper Canada, other than the county in which the lands mentioned therein lie,

Provided an Affidavit, sworn before one of the judges of the superior courts of common law or equity in Upper Canada, or a judge of any county court within his county, or a commissioner in the Queen's Bench or Common Pleas in Upper Canada, be brought to him or his deputy, wherein

One of the Witnesses to the execution of such deed or conveyance

Shall Swear to the execution of the same, as also of the memorial thereof, and to the place where the same were executed, and

In case of Wills, one of the Witnesses to the memorial of such will or probate thereof

Shall Swear to the execution of such memorial and thereupon

To Give the party who brings such deed, &c., and affidavit,

REGISTRAR *continued.*

A Certificate of the Registering of the same, which, signed by the registrar or deputy, shall be taken and allowed

As Evidence of the Registry of the same in all courts of record in Upper Canada, notwithstanding any thing in 9 V. c. 34.....

16 V. c. 187, s. 6.

TO REGISTER MEMORIAL OF POWER OF ATTORNEY by grantor in deed executed thereunder, *In the same manner* and upon the same evidence as a memorial, if a deed or conveyance is now legally registered ;

Fees for recording the same as for a deed or conveyance under this act

16 V. c. 187, s. 7.

FEES ALLOWED TO EVERY REGISTRAR in Upper Canada (see "Fees")

16 V. c. 187, s. 8.

TO KEEP BOOK OF FEES and emoluments received by him, and

Shall make a return of such fees, &c., in detail to the Legislature annually

16 V. c. 187, s. 9.

OR DEPUTY TO REGISTER MEMORIAL of deed, conveyance, will, or power of attorney affecting or relating to any lands, &c., in Upper Canada which shall have been or may be hereafter

Executed or published in any place without Upper Canada,

Either on the evidence already required by law, or *On an Affidavit* sworn before any judge of either of the superior courts of common law or equity in Upper or Lower Canada, or before any judge of the County Court in Upper Canada or Circuit Court in Lower Canada, or a commissioner appointed to take affidavits in Upper or Lower Canada by any of the superior courts of common law, or the registrar or deputy registrar of the county in which such lands are situate wherein.

REGI

C

S

D

I

T

T

C

V

I

S

I

C

E

T

C

REGISTRAR *continued.*

One of the Witnesses to the execution of such deed, will, conveyance, or power of attorney shall swear to the Execution of the same, and also to the place where the same was executed.....

18 V. c. 127, s. 5.

DUTY OF REGISTRAR of any county from which city, town, township, or place has been or shall be detached,

In addition to the books and plans mentioned in the 1st section of the 16 V. c. 187,

To Deliver to the Registrar of the county to which the same has been or shall be attached

The original Memorials of all deeds, wills, and other conveyances of or relating to any lands within such city, &c., only; and

On Refusal to deliver same, as in 16 V. c. 187, or in this act mentioned,

Within three Months after a demand in writing has been made upon him therefor by the registrar (of the county to which the city, &c., is attached),

Deemed guilty of a Misdemeanor, and, on conviction thereof before any Court of Oyer and Terminer and General Gaol Delivery,

Shall forfeit his Office, and be

Liable to a Fine, in the discretion of such court, not exceeding

One Hundred Pounds.....

18 V. c. 127, s. 6.

FEES TO BE TAKEN by, for services under this act (see "Fees")

18 V. c. 127, s. 7.

TO REGISTER DECREE OR ORDER IN CHANCERY on delivery of a

Certificate of the Registrar of the Court of Chancery stating the title of the cause, &c., date of decree, &c., and the amount of moneys thereby or by any report thereof mentioned to be paid, which certificate

187, s. 6.

187, s. 7.

187, s. 8.

187, s. 9.

REGISTRAR *continued.*

- Shall be entered and recorded* in the same books and manner as certificates of judgment at law are now entered and recorded, and
The Registry thereof shall have the same effect as the registry of a judgment at law now has, and
May be discharged in the same manner 20 V. c. 56, s. 10.
- PROOF TO, OF CERTIFICATE OF DISCHARGE of registered judgment by judgment creditor, to be by
Affidavit of one Subscribing Witness who has witnessed the execution of the certificate, which may be taken before any person before whom any affidavit for the registry of any deed or other instrument can be taken 20 V. c. 57, s. 20.
- OF COUNTY WHERE LAND LIES to register deed to trustees of certain religious societies..... 9 G. IV. c. 2, s. 3.
- OF COUNTY WHERE LAND LIES to register conveyance to trustees of any religious society or congregation of Christians 8 V. c. 15, s. 2.
- TO REGISTER SHERIFF'S DEED on sale for non-payment of taxes, on production of *Certificate* under the hand and seal of the sheriff of the execution of such deed, and
To give Certificate of Registry thereof on production to him of the deed and certificate, without further proof;
Fee to, for Registry and certificate thereof, three shillings and six pence, and no more..... 16 V. c. 182, s. 65.
- OF COUNTIES, TO REGISTER SHERIFF'S DEEDS of lands sold for taxes before 1st January, 1851, under act 6 Geo. IV. c. 7, notwithstanding repeal of that act by 13 & 14 Vic. c. 66..... 16 V. c. 182, s. 66.

REGISTRAR OF COURT OF CHANCERY

TO GIVE CERTIFICATE OF BILL FILED or pro-

REGIS

Fo

AN

Co

D

C

M

In

C

REGI

S

T

T

REGISTRAR OF COURT OF CHANCERY *continued.*

ceeding taken in Chancery, in which any title or interest in lands may be brought in question,

For Registration, in order that the filing of the bill may be deemed notice 18 V. c. 127, s. 3.

ANY PERSON MAY REGISTER decree in Chancery affecting the title of lands, on production of certificate of, in the county registry office in the county where the land is situate.

Certificate by, to state the substance and effect of the decree and the lands affected thereby... 18 V. c. 127, s. 4.

DEPUTY REGISTRAR OF COURT, when bill or other proceeding is filed in his office, is authorised to give certificate thereof for registration under 18 V. c. 127, and the registration thereof to have the same effect as the registration of the certificate of the registrar of the court

20 V. c. 56, s. 9.

CERTIFICATE BY, OR DEPUTY, of decree or order of court,

May be Registered in any county registry office, on delivery to county registrar,

In the same Books and in the same manner as certificates of judgments at law 20 V. c. 56, s. 10.

CERTIFICATE BY, OR DEPUTY, of decree, to state any restriction of charge created to part of lands

20 V. c. 56, s. 11.

REGISTRY BOOKS

SECRETARY OF PROVINCE required to provide for each township, reputed township, city and town, of which the limits are defined.

To be of one Uniform Size..... 9 V. c. 34, s. 32.

TREASURER OF COUNTY hereafter to furnish Registry Books, and pay for out of county funds.

REGISTRY BOOKS *continued.*

Certificate now given by provincial secretary in and with regard to any registry book, shall henceforth be given by

The Judge of the County Court having jurisdiction in such county, on the application of the registrar.

Size and Description of, to be nearly as may be the same as those heretofore furnished by the provincial secretary, under 9 V. c. 34, s. 22.....

16 V. c. 187, s. 3.

REGISTRAR TO COPY MEMORIAL of deed, will or instrument embracing

Different Lots of land in different localities in the same county, to the same extent

As if a Separate Memorial of such deed, &c., had been furnished, &c.....

16 V. c. 187, s. 5.

REGISTRY OFFICE

TO BE KEPT in every county in Upper Canada FOR COUNTY, how, and by whom, and at what expense provided with fire-proof office and vaults;

9 V. c. 34, s. 3.

Governor may fix the time for removal to.....

9 V. c. 34, s. 19.

REGISTER BOOKS to be provided by secretary of the province, for each township, reputed township, city and town.

Expense of New Register Books to be paid by county council.....

9 V. c. 34, s. 22.

REMOVAL OF REGISTRY OFFICE, Governor, by proclamation, may order, to such other place in the county as he shall deem expedient...

9 V. c. 34, s. 30.

NEW REGISTER BOOKS shall, after passing of act, (14th June, 1853,) be furnished to registrar by the treasurer of the county, on his application therefor, and paid for by treasurer out of county funds.

REGIS

Ty

T

H

RELE

O

T

O

B

F

T

F

M

E

W

H

REGISTRY OFFICE *continued.*

Treasurer of County refusing to furnish such book within thirty days after application, The Registrar may Provide the same, and recover the cost from the municipality of the county 16 V. c. 187, s. 3.

HOLIDAYS AT, on Christmas, New Year's Day, Good Friday, Ash Wednesday, Easter Monday, and the Queen's Birth Day 16 V. c. 187, s. 13.

RELEASE

OF MORTGAGE, certificate by mortgagee of payment, &c., under 35 Geo. III. c. 5, and of discharge under this act,
To operate as Reconveyance and release 9 V. c. 34, s. 24.

OF MORTGAGE DEBT, wholly or in part, as to whole or part of the lands mortgaged
By Executor of deceased Mortgagee, entitled to receive the mortgage debt, &c. (see "Discharge") 14, 15 V. c. 7, s. 8.

FROM CROWN DEBTS created by deed, &c., may be made by Governor in Council, and
The Order may be Registered with Clerk of Queen's Bench, and the lands released from the time of registration 14, 15 V. c. 9, s. 3.

FEE OF FIVE SHILLINGS payable to Clerk of Queen's Bench for registration of instrument creating or releasing Crown debts..... 14, 15 V. c. 9, s. 4.

MORTGAGEE OR HIS ASSIGNEE may take from mortgagor or his assignee of
Equity of Redemption in the property, or may purchase the same under any power of sale in his mortgage, or any judgment and decree, *Without thereby merging the Mortgage Debt* as against any subsequent mortgagee or
Registered Judgment Creditor of the same property 14, 15 V. c. 45, s. 1.

187, s. 3.

187, s. 5.

s. 34, s. 3.

34, s. 19.

34, s. 22.

34, s. 30.

RELIGIOUS SOCIETIES

TRUSTEES of certain religious congregations, and their successors in perpetual succession, may by the name expressed in deed, take, hold, and possess land for the site of a church, meeting-house or chapel, or burying-ground 9 G. IV. c. 2, s. 1.

TRUSTEES shall within twelve months after the execution of such deed cause the same to be *Registered* in the office of the County Registrar of the county where the land lies 9 G. IV. c. 2, s. 2.

ANY RELIGIOUS SOCIETY OR CONGREGATION OF CHRISTIANS in Upper Canada having occasion to take

A Conveyance of Land for the site of a church, chapel, meeting-house, burial-ground, and residence for their minister,

May appoint Trustees, to whom and to whose successors, to be appointed in such manner as shall be specified in the deed of conveyance,

The Land requisite for all or any of the purposes aforesaid may be conveyed, and

Such Trustees and their successors in perpetual succession, by the name expressed in such deed or conveyance,

Shall be capable of taking, holding, and possessing such land..... 8 V. c. 15, s. 1.

TRUSTEES SHALL within twelve months after the execution of such deed of conveyance register the same in the office of the registrar of the county in which the land is situate 8 V. c. 15, s. 2.

TRUSTEES OMITTING TO REGISTER deed of conveyance to them in due time,

This Act shall not extend to render invalid any right or title to such estate on account of such omission, but

RELIG
S
REPE
O
O
O
O
O
O
O
T

RELIGIOUS SOCIETIES *continued.*

Such Right or Title shall be taken and adjudged to be as if this act had not been passed ... 16 V. c. 126, s. 1.

REPEAL

- c. 2, s. 1. OF 35 GEO. III., c. 5, "An act for the public registering of deeds, conveyances, wills and other incumbrances which shall be made or may affect any lands, tenements or hereditaments within this province."
- c. 2, s. 2. Of 37 *Geo. III.*, c. 8, "An act to supply the want of enrolment of deeds of bargain and sale."
- Of 58 *Geo. III.*, c. 8, "An act to provide for the enregistering of deeds, conveyances, wills and other incumbrances, which may affect any lands, tenements and hereditaments, the same being executed in the United Kingdom of Great Britain and Ireland, or in any of her Majesty's colonies, and to amend an act passed in the thirty-fifth year of his Majesty's reign, intituled, 'An act for the public registering of deeds, conveyances, wills and other incumbrances, which shall be made, or may affect any lands, tenements or hereditaments within this province.'"
- . 15, s. 1. Of 4 *Will. IV.*, c. 16, "An act concerning the release of mortgages." 9 V. c. 34, s. 1.
- OF PROVISO at the end of 24th section of 9 V. c. 34..... 10, 11 V. c. 16, s. 2.
- . 15, s. 2. OF SO MUCH OF THE 17TH SECTION OF THE ACT 9 V. c. 34, as relates to the forging or counterfeiting of any certificate, affidavit or memorial therein mentioned 10, 11 V. c. 9, s. 22.
- OF 14TH SECTION of 9 Vic. c. 34 13, 14 V. c. 63, s. 6.
- OF 9TH SECTION of 9 V. c. 34 16 V. c. 187, s. 6.
- THE 16TH SECTION of 9 V. c. 34 16 V. c. 187, s. 10.

REPEAL *continued.*

- ACT 9 GEO. IV., c. 4, "An act to amend the assessment laws of this province" 13, 14 V. c. 66.
 (N.B.—The provisions of this repealed act were by the 16 Vic. c. 182, sec. 66, made applicable to the deeds of sale for taxes before 1851) 16 V. c. 182, s. 66.

RE-REGISTRATION

- JUDGMENT REGISTERED AGAINST LAND in any county
Shall cease to be a Lien or Charge upon the land of the party against whom the judgment has been rendered, or any one claiming under him,
In three Years after such judgment has been registered,
Or within one Year after the passing of this act (10th June, 1857),
Unless before the expiration of the said period of three years, or within one year after the passing of this act (10th June, 1857), such judgment shall be -
Re-registered, and
Such Lien or Charge shall cease whenever the period of three years shall at any time be allowed to elapse,
Without a further re-registry 20 V. c. 57, s. 19.

SALE

- OF REAL ESTATE, FOR SATISFACTION OF CHARGE ON, created by a registered decree or order. (See "Chancery") 20 V. c. 56, s. 12.

SATISFACTION PIECE

- REGISTRAR TO DISCHARGE JUDGMENT in registry book, on receipt of;

SATIS

F

SHER

D

E

A

U

R

D

R

O

D

C

SATISFACTION PIECE *continued.*

- 4 V. c. 66. *Filed, Numbered and Entered* on margin of register, under word "discharged" 9 V. c. 34, s. 23.

SHERIFF

- 182, s. 66. DEED OF LAND SOLD FOR TAXES before the 1st January, 1851, registrar to register according to act 6 Geo. IV., c. 7, notwithstanding its repeal by 13, 14 Vic. c. 66..... 16 V. c. 182, s. 66.
- EXECUTING DEED OF SALE FOR TAXES to purchaser, shall also give him
A Certificate of the Execution of the Deed, containing the date and cause of the sale and the price, and a description of the land by its situation, boundaries and quantity,
Under his Hand and Seal, which, for the purpose of
Registration of the Deed in the registry office of the proper county, shall be
Deemed a Memorial thereof, and the deed shall be registered. (See "Taxes")..... 16 V. c. 182, s. 65.
- REGISTRATION OF DEED BY, on sale for non-payment of taxes, before 1st January, 1851, to be made under act 6 Geo. IV., c. 7, notwithstanding repeal of that act by 13, 14 V. c. 66..... 16 V. c. 182, s. 66.
- 57, s. 19. ON SALE FOR TAXES, UNDER 6 GEO. IV., c. 4, (repealed by 13 & 14 V. c. 66, but made applicable by 16 V. c. 182, s. 66, to deeds of sale for taxes before 1851,) before delivering to purchaser any conveyance of goods sold under the provisions of this act, shall
Deliver to the Registrar of the county in which lands are situated, a certificate of such sale, under his hand and seal of office, stating the name of the purchaser, &c., which
Certificate shall be to such registrar a sufficient
- 56, s. 12.

SHERIFF *continued.*

Authority in place of a Memorial, to record such conveyance 6 Geo. IV., c. 7, s. 19.

SUPERIOR COURTS

DEPUTY CLERKS MAY GIVE CERTIFICATES OF JUDGMENTS entered by them, which certificates

May be Registered in the proper county and bind lands 19 V. c. 43, s. 15.

SURRENDER

BY REGISTRAR OF OFFICE, recognizance given by, void at end of one year after, when no misbehaviour appears to have been committed by him in execution of office.....

9 V. c. 34, s. 28.

SURVEYOR GENERAL

OFFICER OR PERSON PERFORMING DUTIES formerly assigned to, to furnish each registrar with a

List of the Names of all persons in whose favour *Patents may have heretofore Issued* from the Crown for grants of lands within their respective counties, or which may hereafter issue, and also

With Copies of all Plans or maps of towns and townships within the same,

Within Twelve Calendar Months after any registrar shall, in writing, make application to the said officer or person performing such duties as aforesaid, for the same

9 V. c. 34, s. 31.

TACKING

DOCTRINE OF, declared to have been found productive of injustice, and requires correction. *Every Deed and Conveyance* executed after January 1st, 1851,

TAC

TAX

TACKING *continued.*

A Memorial whereof shall be duly registered,
and

Every Judgment recovered after January 1st,
1851,

A Certificate whereof shall be duly registered,
shall be

Deemed and taken as good and effectual in law
and equity,

According to the Priority of the time of regis-
tering of such memorial or certificate, and

When no Memorial of such deed or conveyance
shall have been duly registered, then

According to the Priority of time of execution 13, 14 V. c. 63, s. 4.

TAXES

DEED BY SHERIFF ON SALE FOR non-payment
of, (prior to 1851, see 16 Vic. c. 182, s.
66,)

Registrar to record, on certificate of sheriff, in
place of memorial 6 Geo. IV., c. 7, s. 19.

LAND SOLD FOR, before 1st January, 1851, regis-
trar to register according to act 6 Geo. IV.
c. 7, notwithstanding its repeal by 13 & 14
Vic. c. 66..... 16 V. c. 182, s. 66.

SHERIFF EXECUTING AND DELIVERING A DEED
OF SALE of land (sold for non-payment of
taxes) to the purchaser, shall also give the
purchaser

A Certificate of the Execution of such Deed, con-
taining the date and cause of the sale and
the price, and a description of the land by
its situation, boundaries, and quantity,

Under his Hand and Seal, which, for the pur-
pose of

Registration of the deed in the registry office of
the proper county, shall be

TAXES *continued.*

- Deemed a Memorial* thereof, and the deed shall be registered, and
Certificate of the Registry thereof granted by the registrar, on production to him of the deed and certificate, and without further proof.
Registrar shall, for the registry and certificate thereof, be entitled to three shillings and six pence, and no more..... 16 V. c. 182, s. 65.
- SHERIFF'S DEED OF SALE FOR NON-PAYMENT OF**, before 1st January, 1851, to be under 6 Geo. IV. c. 7, notwithstanding repeal of that act by 13 & 14 Vic. c. 66..... 16 V. c. 182, s. 66.

TIME

- One year*, within which, from and after passing of act (30th May, 1849), owner of site of town or village in Upper Canada required to make and deposit map in registry office (see "Town or Village") 12 V. c. 35, s. 42.
- Twelve Calendar Months*, within which deed of real estate by or in favour of "The Connexional Society of the Wesleyan Methodist Church in Canada" is to be registered 14, 15 V. c. 142, s. 5.
- Three Years* after registration of judgment, it ceases to be a lien or charge on land, unless re-registered,
Or within one Year from passing of act (10th June, 1857), judgment ceases to be a lien or charge on lands, unless re-registered. (See "Re-registration") 20 V. c. 57, s. 19.
- THREE YEARS**, if allowed to elapse without re-registering judgment, the lien or charge shall cease. (See "Re-registration")..... 20 V. c. 57, s. 19.
- WITHIN TWELVE MONTHS** after death of testator, deviser, &c., for registration of wills.
Within Twelve Months (extension) after attain-

TIME *continued.*

ment of will, &, or removal of inevitable
impediment 9 V. c. 34, s. 12.

TWELVE MONTHS after death of registrar or
surrender of office by,
Recognizance given by him to be void, if no mis-
behaviour appears to have been committed
by him in the execution of office 9 V. c. 34, s. 28.

ONE YEAR from passing of act, (2nd August,
1851,) within which all deeds, bonds, con-
tracts, instruments creating Crown debts,
to be registered, or lands of person who
executed same, discharged as against sub-
sequent purchaser, &c..... 14, 15 V. c. 9, s. 5.

THIRTY DAYS, within which, after application,
treasurer of county to supply registrar with
registry books 16 V. c. 187, s. 3.

THREE MONTHS, within which, registrar, after
demand in writing, on detachment of city,
&c., from his county, to deliver original
memorials, &c., under this act, and maps,
&c., under 16 V. c. 187, to registrar of
county to which city, &c., attached, or,
guilty of a misdemeanour, and to forfeit his
office, and liable to a fine not exceeding one
hundred pounds 18 V. c. 127, s. 6.

TWELVE MONTHS after execution of deed to trust-
tees of certain religious societies, for trust-
tees to get same registered in office of the
registrar of the county where the land lies. 9 Geo. IV., c. 2, s. 3.

WITHIN TWELVE MONTHS after execution of
conveyance to trustees of any religious so-
ciety or congregation of Christians, for
them to register same in office of the regis-
trar of the county where the land is situate. 8 V. c. 15, s. 1, 2.

EXTENSION WITHIN TWELVE MONTHS from pass-
ing of act, (30th May, 1849,) for registration

TIME *continued.*

of deeds of conveyance to trustees of religious societies, for purposes of acts 9 Geo. IV., c. 2, and 8 Vict. c. 15..... 12 V. c. 91, s. 1.

FURTHER EXTENSION WITHIN TWELVE MONTHS from passing of act, (23rd May, 1853,) for registration of deeds of conveyance to trustees of religious societies, under acts 9 Geo. IV., c. 2; 8 Vic. c. 15, and 12 Vic. c. 91. 16 V. c. 126, s. 1.

TITLE

STATEMENT OF, registrar of county from which a portion is separated or set apart, so as to form another county or a part thereof, to furnish, of the registration of such titles as may have been registered, of lands lying in the separated parts, to the registrar of the new county, &c., setting forth the dates of the deeds and the particulars of the lots or parcels of land to which they relate 9 V. c. 34, s. 32.

REGISTRY OF TITLES TO LAND, this act not to affect.
Priority or Claim which any mortgagee or judgment creditor shall or may have or be entitled to, under any act now in force relating to 14, 15 V. c. 45, s. 3.

STATEMENT OF LANDS LYING IN CITY, &c., as may have been registered before separate registry books were kept for each township or place under the authority of 9 V. c. 34,
Shall be Furnished by the registrar of the county from which such township or place shall have been detached,
To the Registrar of the county to which the same shall have been attached, or of which it shall become a part, in the manner provided by the 32nd section of 9 V. c. 34 ... 16 V. c. 187, s. 1.

TITLE *continued.*

STATEMENT OF TITLES to land, furnished by registrar of a county to the registrar of any new county, under 9 V. c. 34 s. 32, shall be
Accompanied with an Index thereto, as part of the statement, and

Registrar shall compare such statement with the original entries in the register books in his office, and

Endorse a Certificate to that effect on such statement, when furnishing the same to the registrar of such new county,

And such Statement shall, in addition to the requirements of 9 V. c. 34, s. 32,

Contain the Names of the parties to such deeds, and the witnesses, and shall also

Contain the same Particulars with regard to wills and other registered documents affecting lands in such new county as are required concerning deeds, and

Shall also Furnish a Statement of any wills registered in any general registry book of wills, whether such book was procured before or since the passing of said act

16 V. c. 187, s. 2.

CHANCERY PROCEEDING, title brought in question by,

Not to be Deemed Notice of such bill or proceeding, *Unless and Until* a certificate shall be given by the registrar of the said Court of Chancery, to some person demanding the same, in the following

Form, "I certify that in a suit or proceeding in Chancery, between A. B. and C. D., some title or interest is called in question in the following lands (stating them),"

And Registered in the registry office of the county, &c., in which the lands are situate.

91, s. 1.

126, s. 1.

34, s. 32.

45, s. 3.

87, s. 1.

TITLE *continued.*

- No such Certificate* required to be registered in any suit or proceeding for
Foreclosure of any registered mortgage 18 V. c. 127, s. 3.
- OF LANDS, AFFECTED BY DECREE in Chancery, where and how the decree is to be registered. (See "Decree")..... 18 V. c. 127, s. 4.
- ANY PERSON CLAIMING TO HOLD REAL ESTATE included in the deed to trustees of religious society,
On account of the Omission to Register the same in due time, and shall, in virtue of such claim,
Have taken Possession of such real estate before the passing of this act, (23rd May, 1853,) and have made improvements thereon and also,
In all Cases where the person claiming to hold or be entitled to such real property on account of such omission,
Shall have actually Sold or contracted to sell such real estate before the passing of this act, (23rd May, 1853,) no person being at that time in adverse possession of the same,
The Provisions of this Act shall not extend to render invalid any right or title to such estate,
But such Right or Title shall be taken and adjudged to be as if this act had not been passed 16 V. c. 126, s. 1.

TOWN OR VILLAGE

ANY PERSON, CORPORATION OR COMPANY surveying and sub-dividing any land into, differing from the manner in which such lands were described as granted by the Crown, may lodge with the registrar of the county
A Map or Plan thereof, shewing the numbers

TOWN OR VILLAGE *continued.*

and ranges of the lots, and the names, sites and boundaries of the streets and lanes, by which such lots may be in whole or in part bounded, together with

A Declaration, to be signed by such person, or by the lawful officer, agent or attorney of such corporation or company, that the said plan contains a true description of the lots and streets laid out and appropriated by such person, &c., and henceforth it shall be lawful for

The Registrar to Keep an Index of the land described on such map or plan as a town or village, by the name by which such person, &c., shall designate the same.....

9 V. c. 34, s. 33.

OWNER OF THE LANDS forming the site of, or any original division thereof in Upper Canada, mentioned in the 41st section of act, or agents, heirs or legal representatives shall,

Within One Year from and after the passing of act, (30th May, 1849,) make and

Deposit in Registry Office of county wherein town or village is situate, a fair and correct

Plan or Map thereof, or original division thereof, on a scale not less than an inch to every four chains, &c., which shall be

Certified by some Land Surveyor, and also by the original owner or his legal representative, as being a

Correct Plan or Map of the same, and every *Copy of such Plan or Map* obtained from such registry office, and

Certified as Correct by the Registrar of such county, shall be taken as

Evidence of the Original Plan and survey of

127, s. 3.

127, s. 4.

26, s. 1.

TOWN OR VILLAGE *continued.*

such town or village in all courts of record.

Owner, &c., Refusing or Neglecting to make such plan or map, and to deposit it in a registry office of the county wherein the same is situate, within one year from passing of act,

To Forfeit and Pay, for such Refusal and Neglect, £2 10s., and a like sum for every year thereafter, until made and deposited...

12 V. c. 35, s. 42.

TOWNSHIP, &c.,

OR REPUTED TOWNSHIP, CITY OR TOWN, of which limits shall be defined by law within county, the registrar of the county to keep a separate register book for

9 V. c. 34, s. 22.

DETACHMENT OF, or of city, town, reputed township or place, from one county, and attachment to another,

The Registry Books kept for such city, &c., under the 22nd section of 9. V. c. 34,

And all Plans or Maps of town or village lots in such city, &c., lodged in the office of such registrar, pursuant to 32nd section of 9 V. c. 34,

Shall be Delivered by the registrar of the county from which such city, &c., is detached,

To the Registrar of the county to which the same is attached, or of which it shall become a part,

To be Kept by him among the registry books of his office, in like manner as registry books originally made and kept therein.

Statement of Titles of, or relating to lands in such city, &c., as may have been registered before separate registry books were kept for each township or place, under the authority of 9 V. c. 34,

TOW

TR

TOWNSHIP, &c. *continued.*

Shall be Furnished by the registrar of the county from which city, &c., detached,

To the Registrar of County to which same attached, or of which it shall become part, in the manner provided by 9 V. c. 34, s. 32.

Provisions of this Section applicable to every city, town, township, reputed township or place in any new county,

And in any County, which, being theretofore united with another county or counties for the purposes of registration, shall be detached therefrom for such purposes, and become entitled to have a separate registry office.....

16 V. c. 187, s. 1.

DETACHED from one county, and attached to another, the registrar to deliver to registrar of county to which attached, in addition to the maps, &c., under 16 V. c. 187, the original memorials of all deeds, wills and other conveyances relating to lands, and, on refusal, after three months demand in writing, guilty of misdemeanor, and liable to a fine of one hundred pounds

18 V. c. 127, s. 6.

TRUSTEES

FOR CERTAIN RELIGIOUS SOCIETIES and their successors, to be appointed as specified in deed, may, by the name expressed in such deed, take, hold and possess land for the site of a church, meeting house or chapel, or burying ground

9 Geo. IV., c. 2, s. 1.

SHALL REGISTER SUCH DEED in the office of the registrar of the county in which such land lies, within twelve months after the execution

9 Geo. IV., c. 2, s. 3.

OF ANY RELIGIOUS SOCIETY or congregation of

35, s. 42.

4, s. 22.

TRUSTEES *continued.*

Christians under deed, conveying land to them and their successors in perpetual succession, requisite for the site of a church, chapel, meeting house, burying ground or residence for their minister,

Shall Register the Conveyance in the office of the registrar of the county in which the said land is situate, within twelve months after its execution.....

8 V. c. 15, s. 1, 2.

PERSON CLAIMING TO HOLD OR BE ENTITLED TO REAL ESTATE included in deed to trustees of religious society, on account of the omission to register the same in due time, and who, in virtue of such claim, shall have taken possession before the passing of this act, (23rd May, 1853,) and have made improvements thereon, and

In all Cases where the person claiming shall have actually sold or contracted to sell the same before the passing of this act, (23rd May, 1853,) no person being at that time in adverse possession of the same,

This Act shall not Extend to render invalid any right or title to such estate, but

Such Right or Title shall be taken and adjudged to be as if this act had not been passed.....

16 V. c. 126, s. 1.

UNCONDITIONAL

ALL ASSIGNMENTS OF LOCATED CLAIMS in Crown lands, heretofore located or located hereafter, to be unconditional for registration by Commissioner of Crown Lands

16 V. c. 159, s. 8.

UPPER CANADA

WORDS "UPPER CANADA," what to extend to and mean

9 V. c. 34, s. 35.

THIS ACT applies to, only

14, 15 V. c. 9, s. 6.

VAL

WES

WII

VALUABLE CONSIDERATION

PURCHASER OR MORTGAGEE FOR, after any memorial is on the register, who registers a memorial of his purchase or mortgage deed, prior to the registration of a deed of earlier date than his own, such non-registered deed of earlier date adjudged fraudulent and void against him. (See "Purchaser for valuable consideration," and "Mortgagee for valuable consideration.").....

9 V. c. 34, s. 6.

s. 1, 2.

WESLEYAN METHODIST CHURCH

DEEDS OF REAL ESTATE made or executed by or in favour of the corporation named "The Connexional Society of the Wesleyan Methodist Church in Canada," (except leases for a term not exceeding nine years,)

Shall be duly Registered according to law, within twelve calendar months after the making and execution thereof,

Otherwise Void and of no effect.

Registration of such deed within the said term, no greater effect given by act in respect of, than is by law given to the registration of any other deed of real estate in Upper Canada.....14, 15 V. c. 142, s. 5.

s. 1.

WILLS

A MEMORIAL OF WHICH MAY BE REGISTERED when the deviser or testator shall die, at election of party or parties concerned.

A *Memorial of which must be Registered* when the deviser or testator shall die, or adjudged fraudulent and void against a subsequent purchaser or mortgagee for valuable consideration, whose deed is first registered.....

9 V. c. 34, s. 6.

s. 8.

s. 35.

s. 6.

WILLS *continued.*

- OR PROBATE, TO BE PRODUCED TO REGISTRAR at
time of entering memorial 9 V. c. 34, s. 8.
- MEMORIAL OF, PUBLISHED, &c., WITHOUT THE
LIMITS OF Upper Canada, to be registered
upon production of certain evidence 9 V. c. 34, s. 10.
- OR PROBATE, which shall be recorded within
twelve months after death of devisor, testa-
tor or testatrix, shall be as valid against
subsequent purchasers, as if recorded imme-
diately after death.
- Contested, or not Recorded*, through any other
inevitable difficulty, without their wilful neg-
lect, &c., and devisee or persons interested
thereunder disabled thereby from recording
the same, time for recording extended to
within twelve months next after attainment
of such will or probate thereof, or the remo-
val of the impediment..... 9 V. c. 34, s. 12.
- DEVISEES, provisions as to, under 12th section
of 9 V. c. 34, judgment creditors, &c.,
bound by 13, 14 V. c. 63, s. 3.
- PUBLISHED OR MADE IN LOWER CANADA, before
whom affidavit of execution may be made... 13, 14 V. c. 63, s. 5.
- REGISTERED under 9 V. c. 34, or this act, af-
fecting any lands, registry to be notice in
equity to all persons claiming any interest
in such lands, &c., subsequent to such regis-
try 13, 14 V. c. 63, s. 8.
- REGISTRATION OF, EMBRACING DIFFERENT LOTS
of land situate in different localities in the
same county,
- One Memorial only is Necessary of*, to be copied
in the registry book for the city, &c., to the
same extent only as if a separate memorial
had been furnished in relation to the lands
in such city, &c. 16 V. c. 187, s. 5.

WILLS *continued.*

REGISTRATION OF, repeal of 9th section of 9
V. c. 34.

Memorial of Will or Probate, made and published in any place within Upper Canada, other than the county in which the lands lie, to be registered,

On Production of Affidavit to registrar by one of the witnesses to the memorial of the will or probate, of the execution of such memorial

16 V. c. 187, s. 6.

MEMORIAL OF, affecting lands in Upper Canada, but executed or published without Upper Canada, on what evidence to be registered.

18 V. c. 127, s. 5.

WITNESS

ONE OF WITNESSES TO DEED, WILL, &c., executed out of limits of Upper Canada, to make affidavit or affirmation, and before whom, of execution prior to registration ...

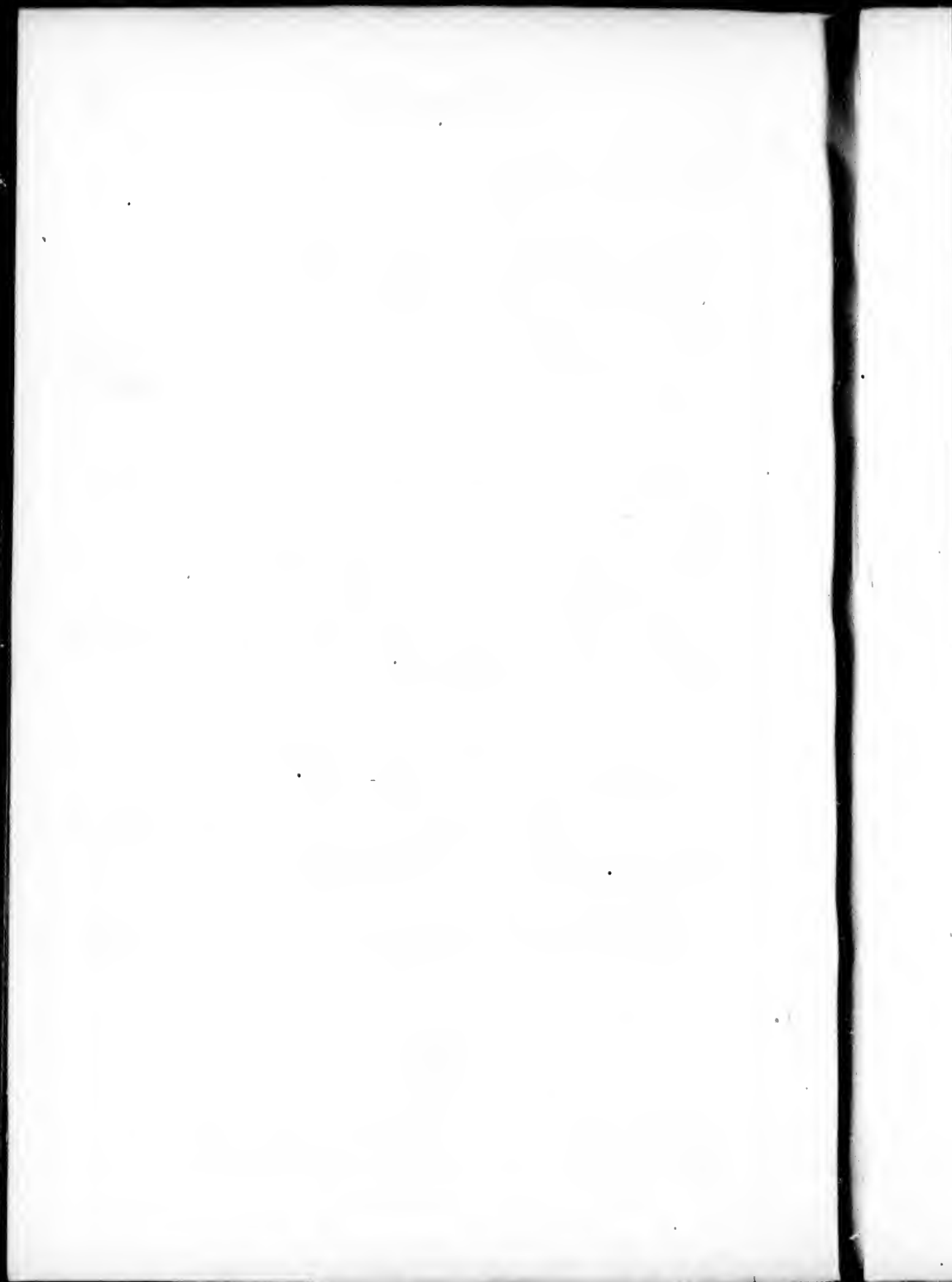
9 V. c. 34, s. 10.

DEAD OR PERMANENTLY RESIDENT OUT OF PROVINCE, grantee or grantees, his or their heirs, executors, administrators, guardians or trustees, or their assignee or assignees may make proof at quarter sessions, of execution of any deed, conveyance or will, and how registration thereupon effected

9 V. c. 34, s. 11.

DEATH OR ABSENCE of witness to assignment of Crown land claims, proof of, required by affidavit, prior to registration of assignment by the Commissioner of Crown Lands.....

16 V. c. 159, s. 7.



HEADS OF THE ANALYTICAL INDEX.

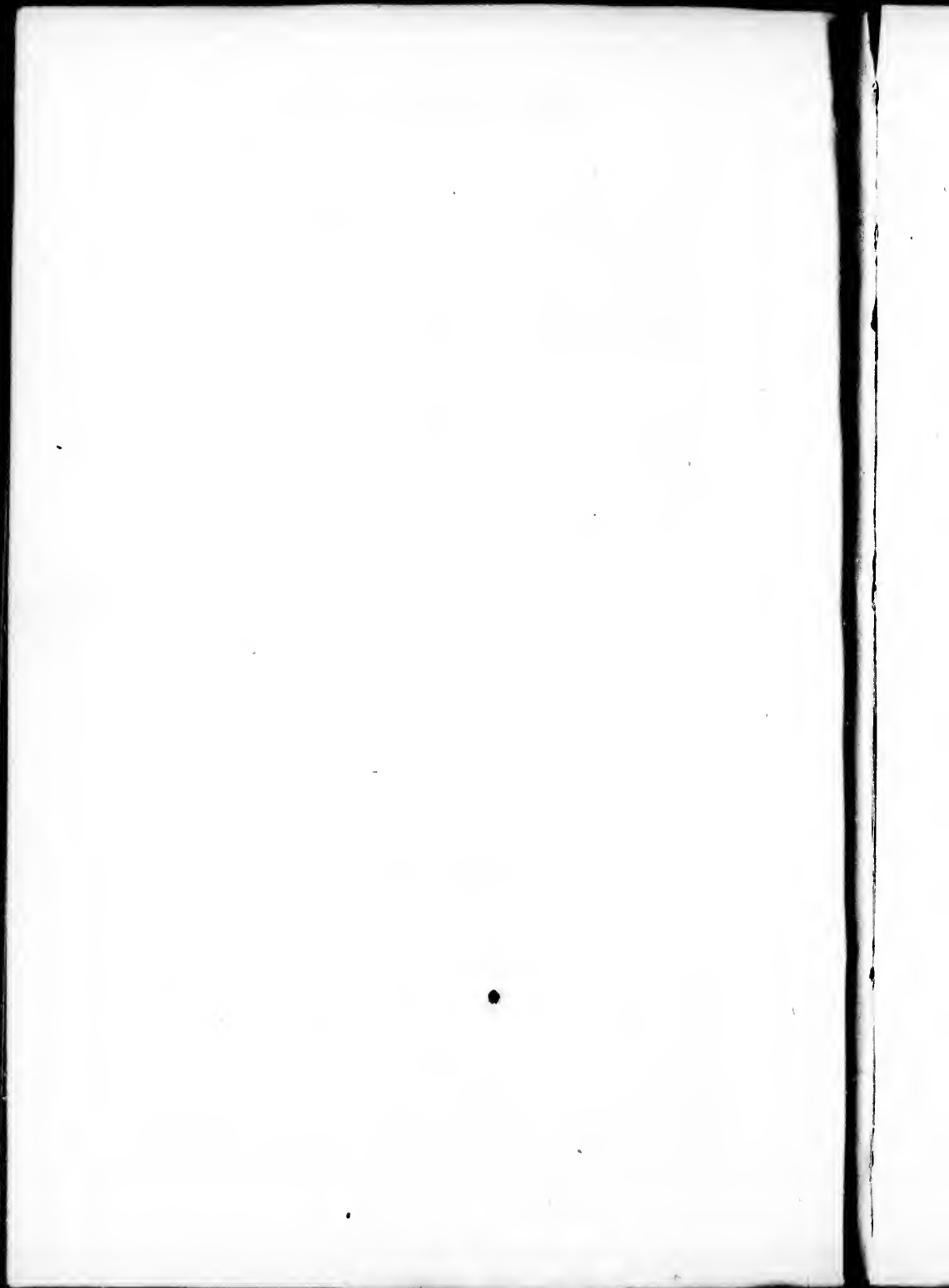
| A. | PAGE | D. | PAGE |
|------------------------|------|-------------------------|------|
| Act | 123 | Death | 148 |
| Administrator | 123 | Declaration..... | 148 |
| Affidavit | 123 | Decree | 149 |
| Assignment | 125 | Deed | 150 |
| Attorney | 126 | Deputy Clerk of Crown. | 154 |
| | | Devise..... | 154 |
| B. | | Devisee | 154 |
| Bargain and Sale | 126 | Discharge | 155 |
| Bill | 126 | | |
| Bond | 127 | E. | |
| | | Enrolment | 156 |
| C. | | Equity of Redemption. | 156 |
| Certificate | 128 | Evidence..... | 157 |
| Chancery | 135 | Execution of Deed..... | 158 |
| Charge | 138 | Execution against Lands | 158 |
| Clerk of County Court. | 138 | Executor | 159 |
| —— of Peace | 139 | | |
| —— of Queen's Bench | 139 | F. | |
| Commissioner of Crown | | Fees | 159 |
| Lands | 140 | Filing..... | 162 |
| Contract..... | 142 | Fine | 162 |
| Conveyance | 142 | Foreclosure..... | 162 |
| Corporation | 143 | Forfeiture | 163 |
| Cost | 143 | Forswearing | 163 |
| County | 143 | Fraud | 163 |
| —— Courts | 146 | Fraudulent and Void... | 163 |
| Crown Lands..... | 146 | | |
| —— Debts | 148 | | |

| G. | PAGE | N. | PAGE |
|-------------------------|------|--------------------------|------|
| Governor..... | 164 | Notary | 198 |
| Governor in Council ... | 164 | Notice | 198 |
| Grantee | 165 | | |
| | | O. | |
| H. | | Oath | 194 |
| Holidays | 165 | | |
| | | P. | |
| I. | | Patent | 194 |
| Instrument..... | 165 | Penalty | 195 |
| Interpretation | 166 | Power of Attorney..... | 195 |
| Identity | 166 | Priority | 195 |
| Index | 167 | Punishment | 196 |
| | | Purchaser | 196 |
| | | ——— for Valuable | |
| J. | | Consideration | 196 |
| Judge of County Court, | 167 | | |
| Judgment | 167 | Q. | |
| ——— Creditor..... | 172 | Quarter Sessions | 197 |
| | | | |
| L. | | R. | |
| Land | 174 | Railway and other Com- | |
| —— Surveyor | 179 | panies..... | 197 |
| Lease | 180 | Real Estate | 198 |
| Legal Estate | 180 | Recognizance..... | 198 |
| Lien | 180 | | |
| Lower Canada | 180 | R. | |
| | | Re-Conveyance | 199 |
| M. | | Registration | 199 |
| Map or Plan | 181 | Registrar | 216 |
| Memorial | 182 | ——— of Court of | |
| Merger..... | 189 | Chancery | 228 |
| Misdemeanor | 189 | Registry Books | 229 |
| Mortgage | 190 | ——— Office | 230 |
| Mortgagee | 190 | Release | 231 |
| Mortgagor, | 192 | Religious Societies..... | 232 |
| Municipality of County. | 198 | Repeal | 233 |
| | | Re-Registration | 234 |

HEADS OF THE ANALYTICAL INDEX.

iii

| S. | | T | |
|--------------------------|------|------------------------|------|
| | PAGE | | PAGE |
| Sale..... | 234 | Township | 244 |
| Satisfaction-Piece | 234 | Trustees..... | 245 |
| Sheriff | 235 | U. | |
| Superior Courts..... | 236 | Unconditional..... | 246 |
| Surrender | 236 | Upper Canada | 246 |
| Surveyor-General | 236 | V. | |
| T. | | Valuable Consideration | 247 |
| Tacking | 236 | W. | |
| Taxes | 237 | Wesleyan Methodist | |
| Time | 238 | Church | 247 |
| Title | 240 | Wills | 247 |
| Town or Village..... | 242 | Witness | 249 |



INDEX TO THE JUDICIAL DICTA.

| | PAGE |
|---|--------|
| Agreement Unregistered, recital in | 16 |
| Assignment of Term of Years, assignee not bound to register..... | 20 |
| Attempt to Register, cannot have the effect of actual registration..... | 36 |
| Bargain and Sale. Proof of registration of, immaterial under 47 and 60 clauses of 4 W. IV., c. 1, for the mere purpose of passing the estate, when..... | 30 |
| Book of Registry, evidence of registered title..... | 13 |
| Cancellation of unregistered deed irregular, and title not divested thereby..... | 29, 30 |
| Caveat Emptor, common law maxim of | 12 |
| Certificate of Discharge of portion of lands from mortgage, registrar bound to register or file..... | 27 |
| ———— of Registration indorsed on deed | 12 |
| ———— untrue | 13 |
| Consideration; deed without, being a cloud on the title, court will decree its removal | 39 |
| ———— valuable. Evidence of, when required in ejectment... | 17 |
| ———— valuable. Mortgage to creditors, priority | 34 |
| Construction of Registry Act 13 & 14 V. c. 63 | 48 |
| Constructive Notice, insufficient to postpone a registered conveyance executed <i>bonâ fide</i> | 57, 58 |
| ———— Notice, doubtful whether of any kind is sufficient to pre- vail over a registered title..... | 12 |
| Contract. Purchaser for value, with the legal estate, without notice of, prior to 13 & 14 V. c. 63..... | 49 |
| ———— registered, would, since the act, prevail, if contracts are within the act | 49 |
| Contracts in Equity, effect of 13 & 14 V. c. 63 on | 58 |
| Conveyance of growing timber is within the registry acts | 23 |
| Crown Lands. Voluntary assignment | 34, 35 |
| ———— Registration of, under 4 & 5 V. c. 100..... | 35 |
| Deed. Registry of, under 35 Geo. III., c. 5, not compulsory..... | 11 |
| ———— unregistered. Cancellation of irregular, and title not divest- ed thereby... .. | 29, 30 |
| Devise general. (See "Will.") | 16 |
| Discharge from mortgage of a portion of the lands. Registrar is bound to register or file certificate of | 27 |
| Effect of registry act..... | 7, 39 |

| | PAGE |
|---|--------|
| Election. Parties may register deeds or not, at their election, under 35 Geo. III, c. 5..... | 11 |
| England. Paucity of cases under registry acts | 18 |
| —— Middlesex. Priority, registration..... | 31 |
| English authority, force of, binding, where colonial legislature has made no special provision | 33 |
| Enrolment, registry not necessary to supply the place of, in order to make bargain and sale a valid conveyance, 47 sec. 4 W. IV., c. 1 | 9 |
| Equitable Incumbrances. Priority may be gained by prior registration, but will be defeated by notice..... | 31, 32 |
| —— Rights not created by deed, effect of 13 & 14 V. c. 63, on... | 40 |
| —— Rights. The statute has no application to such cases | 50 |
| —— Rights. Statute settles the priority between deeds, &c., which admit of registration, but does not affect equitable rights which do not arise on any deed or written instrument..... | 50 |
| —— Liens or Mortgages or interest arising from mere contract as distinguished from actual disposition..... | 41 |
| —— Incumbrances. The 13 & 14 V. c. 63, has not made any change in rights of..... | 47 |
| —— Title. Registered judgment. Mistake..... | 47 |
| —— Claims. Registered judgment..... | 52 |
| Equities out of instruments incapable of registration | 57 |
| Estoppel. Patentee of Crown | 9 |
| —— Recital in bond to refer disputes to arbitration | 16 |
| Evidence of registered title | 13 |
| —— A memorial 30 years old proves deed on bare production | 13, 14 |
| —— Memorial signed by grantee, good, on agreement to admit deeds by production of memorials | 15 |
| —— of valuable consideration, when required in ejectment..... | 17 |
| —— insufficient, as against a stranger by bare production of subsequent deed | 17 |
| —— of registered title..... | 19 |
| —— Examined copy from registrar's book, good..... | 19 |
| —— Effect of examined copy of a memorial of a registered deed | 29 |
| Examined Copy from registrar's book good evidence | 19 |
| Execution Debtor and Sheriff. Sales by, of the same land..... | 21 |
| Fees to registrar | 29 |
| —— Registrar, under 9 V. c. 34, has no right to charge a fee for the entry in the margin of memorial | 29 |
| Forged Deed, registration of, gives no effect to..... | 13 |
| Fraudulent Title gains no priority by registry | 13 |
| Growing Timber, conveyance of is within the registry acts..... | 23 |
| Husband and Wife. Wife's interest. Wife's acknowledgment of mortgage. Sale by sheriff..... | 28 |

| | PAGE. |
|---|--------|
| Indorsed Deed. Memorial of | 14, 15 |
| Intention of Registry Act..... | 8, 34 |
| Irish Registration Act. Tacking. Effect of notice..... | 32, 34 |
| — Statute, Lord Redesdale's decisions on, applicable in construing the 13 & 14 V. c. 63 | 48 |
| Judgment. Lands bound on registry of, under 9 V. c. 34, 13th section | 16 |
| — binds lands under 9 V. c. 34, s. 13, from date of registry, not with reference only to remedy by <i>elegit</i> , but for the purpose of sale under a <i>fi. fa.</i> | 19 |
| — Sale under execution to satisfy, and sale by execution debtor at the same time..... | 21 |
| — binds lands from registration | 33 |
| — Prior registration of. Priority. Unregistered deeds..... | 33 |
| — prior to 9 V. c. 34, attached on goods and lands, on delivery of writ to sheriff | 40 |
| — since 9 V. c. 34, attach and bind lands from date of regis- tration | 40 |
| — Effect of statute 9 V. c. 34 | 40 |
| — Further alteration as to, by 13 & 14 V. c. 63, and provi- sions of..... | 40 |
| — Effect of statute to give judgment creditor a specific, in- stead of a general lien on debtor's lands..... | 41 |
| — Registered, lien | 46 |
| — Registered, lands affected by, under statutes | 55 |
| — and Conveyances registered, effect of 13 & 14 V. c. 63, on | 54 |
| — and Deeds registered take effect under 13 & 14 V. c. 63, ac- cording to date of registration | 51 |
| — Unregistered conveyance is void against a subsequent regis- tered judgment | 51 |
| — Registered. Equitable claim | 52 |
| Judgment Creditor purchasing equity of redemption at sheriff's sale, cannot set up his registered judgment against a mortgage on the premises made before delivery of writ to sheriff | 42 |
| — Effect of statute | 43, 44 |
| — not on the same footing under 13 & 14 V. c. 63, for all purposes, as a purchaser | 51, 53 |
| — In cases not affected by registry laws, not entitled to the rights of a purchaser for value without notice | 51 |
| — Effect of 13 & 14 V. c. 63, on | 50, 53 |
| Lands bound on registry of judgment, under 9 V. c. 34, 13th section | 16 |
| — bound not with reference only to <i>elegit</i> , but for the purposes of sale under a <i>fi. fa.</i> | 19 |
| Lien for unpaid purchase money has priority over lien created by a registered judgment against the vendee..... | 40 |

| | PAGE. |
|--|----------|
| Lien Registered judgment..... | 46 |
| Memorial, entry and registration of, effect of | 11 |
| —— more than 30 years old, of a lost deed, is good evidence on bare production | 13, 14 |
| —— of deed. Middlesex Registry Act, England..... | 14 |
| —— not complying with directions of act, effect of | 14 |
| —— lithographed, is a memorial put into writing under 7 Anne c. 20, s. 5, (Middlesex)..... | 14 |
| —— Indorsed deed..... | 14, 15 |
| —— signed by grantee, good evidence at trial, after agreement to admit deeds by production of memorials..... | 15 |
| —— Effect in evidence of examined copy of..... | 29 |
| Mortgage. Registrar bound to file certificate of discharge of a por- tion of the lands..... | 27 |
| Mistake in Deed may be rectified against a judgment creditor, and his lien does not attach..... | 47, 53 |
| Notice in equity and at law | 7, 8, 12 |
| —— of unregistered deed. Court of law. Application of Registry Act..... | 25 |
| —— Security taken without notice of prior incumbrance, may, after knowledge, be registered for the purpose of protection, in the same manner as a term may be got in..... | 31 |
| —— Tacking..... | 37 |
| —— Registration is, under 13 & 14 V. c. 63 | 46 |
| —— of a prior equity is equivalent to registration, is the doctrine of equity, and in such a case priority of registration is of no avail | 49 |
| Object of registry acts..... | 7, 8, 34 |
| Patentee. Two conveyances by assignee of. Priority | 26 |
| Policy of registry laws | 56 |
| Possession not <i>primâ facie</i> evidence of seisin..... | 19 |
| Possession of estate by the first but unregistered purchaser from a registered owner, is not notice of itself to a subsequent pur- chaser of the first purchaser's title | 39 |
| Priority not gained by registry of fraudulent title, or of deed from a person having no title..... | 13 |
| —— party seeking, to give in ejectment some proof of valuable consideration | 17 |
| —— Production of subsequent deed, stating valuable considera- tion, no evidence of against a stranger | 17 |
| —— of registered over unregistered deed of earlier date | 30 |
| —— Equitable Incumbrances. Prior registration. Notice... 31, 32 | |
| —— Mortgage to Creditors. Valuable consideration | 34 |
| —— transferable | 37 |
| —— of right to commit a fraud, the Legislature never intended to give | 49 |

| | PAGE. |
|---|--------------------------|
| Priority of Registration, is of no avail to put an end to the doctrine of equity, that notice of a prior equity is equivalent to registration | 49 |
| Purchase Money unpaid; lien for, has priority over the lien created by a registered judgment against the vendee | 40 |
| Purchaser of Mortgagor's Interest under 12 V. c. 78, on sale by sheriff, acquires the title of the mortgagor, at the time the writ was delivered to the sheriff, not such as he had at the time of registering the judgment | 42, 44 |
| — Effect of statute | 43 |
| Rack Rent. Covenants, imposed upon, and to be performed by tenant, are not equivalent to | 31 |
| Real Estate. Terms of years in; the 12 V., c. 74, relating to mortgages, &c., of chattels, does not apply to | 20 |
| — Trees standing, regarded as | 24 |
| Recital unregistered | 16 |
| Registered Title, what is | 8, 9, 10, 11, 12, 13, 19 |
| Registration of terms of years in real estate, not necessary under 12 V., c. 74, relating to mortgages of chattels | 20 |
| — of assignment of a legal term of years, not necessary | 20 |
| — Voluntary, draws no consequences provided for another state of things | 20 |
| — Of Sheriff's Deeds, precedence gained by | 20 |
| — Conveyance of growing timber, necessary | 24 |
| — of Will made in Lower Canada, devising lands in Upper Canada. Office copy duly certified, equivalent to letters of probate in U. C., and may be registered as such | 28 |
| — in each township, of lands therein, required by 9 V., c. 34 | 29 |
| — not notice in Ireland | 32 |
| — of Crown lands, 4 & 5 Vic., c. 100 | 35 |
| — Attempt to register, not equivalent to | 36 |
| — is notice under 13 & 14 Vic., c. 63 | 46 |
| Registrar is bound to register or file certificate of discharge of a portion of the lands from mortgage | 27 |
| — Proof of deed for, under 9 Vic., c. 34, s. 17 | 29 |
| — not entitled to fee for entry in margin of memorial | 29 |
| Registrar's Fees for each registration | 29 |
| Registry of deeds under 35 Geo. 3, c. 5, not compulsory | 11 |
| — Act, 13 & 14 V., c. 63. Construction of | 48 |
| — Laws. Policy of | 56 |
| — Office. Powers as to removal of vested in Municipal Councils for counties | 30 |
| Removal from Registry, of deed without consideration | 39 |
| Sheriff and Execution debtor, sales by, of the same land | 21 |

| | PAGE. |
|---|------------|
| Sheriff's deed is a conveyance, which will take precedence by registration of a prior unregistered deed..... | 20, 38, 39 |
| —— Sale of land subject to mortgage. Purchaser acquires mortgagor's title at the time of delivery of writ to sheriff, not such as he had at time of registering judgment..... | 42 |
| Tacking. Partial operation of 9 V., c. 34, to prevent | 32 |
| —— Doctrine of, in English Courts of Equity | 33, 34 |
| —— Abolished in Province since 1st of January, 1851..... | 38 |
| —— Assignee of mortgage | 36 |
| Term of Years in real estate; the 12 V. c. 74, relating to mortgages, &c., of chattels, does not apply to | 20 |
| —— Assignment of. Voluntary registry. Effect of | 20 |
| Timber Growing, conveyance of is within the registry acts..... | 23 |
| Townships. Lands in several; the 9 V. c. 34, requires registration in books of each township, of lands therein | 28 |
| Voluntary Registration, does not draw the consequences provided for another state of things | 20 |
| Will. Registry of. Registered title | 12 |
| —— General devise in, passes the title, although the registration affords no information on the face of it, as to what lands are affected by it | 16 |
| —— made in Lower Canada, devising lands in Upper Canada; office copy, certified, &c., is equivalent to letters of probate, and may be registered as such..... | 28 |

PAGE.
-
88, 39
s
t
42
32
33, 34
38
36
20
20
23
28
20
12
16
28

