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No. 75.

3rd Session, 6th Parliament, 23 Victoria, 1860.

BILL.

**An Act respecting Registry Offices, and
Privileges and Hypothecs in Lower
Canada.**

Received and read, 1st time, Friday, 16th April,
1860.

Second reading, Tuesday, 20th April, 1860.

Hon. Mr. Atty Genl. **CARTIER.**

S, Derbishire & G. Desbarats, Queen's Printer.

An Act respecting Registry Offices, and Privileges
and Hypothecs in Lower Canada.

WHEREAS the Laws providing for the registration of hypothecs are intended for the protection as well of those who comply with their requirements by effecting such registration, as of purchasers of the property subject to such hypothecs, and it is unjust that parties, who have lent money or allowed credit for the price of property sold, on the security of hypothecs duly registered, should be exposed to lose the same if they fail formally to oppose proceedings for or consequent upon the subsequent sale of such property, to which they are no parties, of which they receive no personal notice, and of which they may be wholly unaware ;--And whereas the risk of such loss discourages the introduction of capital into Lower Canada, and the loan thereof for the improvement of real property, and obstructs the sale of land on credit, and the reasons which formerly rendered such risk unavoidable, no longer exist :--Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

1. Subject to the provision hereinafter made as to pending cases,—it shall not, after the passing of this Act, be necessary in any case of application for a judgment of confirmation under the Act of the Parliament of Lower Canada, for the more effectual extinction of secret incumbrances on lands, (ninth George Fourth, chapter twenty,) that any opposition be filed in order to preserve any hypothec upon real property, duly registered under the Lower Canada Registry Ordinance, fourth Victoria, chapter thirty, and the Acts amending it, before the first publication of the Notice that such application is to be made, if the Registrar is bound to certify the registration of such hypothec in the certificate hereinafter mentioned.

Oppositions not required in certain cases of application for confirmation of title.

2. The applicant for a judgment of confirmation under the Act above cited, shall, at the time when he makes his application for such judgment, file in the office of the Court, a certificate of the Registrar of the proper County or Registration Division, shewing the hypothecs which are registered :

Applicant to file a certificate from the Registrar.

1. Against the property to which the judgment is to apply, whenever any hypothec is so registered ; or

What such certificate shall show.

2. Against any party who, within ten years next preceding the date of the title sought to be confirmed, has been the owner of such property ; or

3. Against the immediate *auteur* of the party who owned the property at the commencement of the said ten years ;

4. And which do not appear by the books of such Registrar to have been wholly discharged ;

Such certificate shall state also the date of every instrument registered as creating or evidencing any such hypothec, the date of its registration, and the name of the Notary or Notaries before whom such instrument was passed, if it be notarial, and shall mention, as to each hypothec, any partial discharge registered, and the sum which appears to be due for principal and interest ; and if the registration of any such hypothec has been renewed, the certificate shall mention every such renewal and the date thereof ;

Or, if there be no such privileges as aforesaid registered in his office, or all of them so registered appear by his books to be wholly discharged, the Registrar shall state the same in his certificate, which shall be filed by the said applicant .

Provision where the Registrar cannot get all the information requisite from his books.

3. If the Registrar cannot ascertain from the books and documents in his office, who were the owners of the property during the ten years aforesaid or who was the *auteur* of the party who was owner at the commencement of the said ten years, he shall inquire diligently of the neighbouring proprietors and other parties well acquainted with the property, who shall give him such information as they are able to give, in writing and on oath or solemn affirmation to be made before the Registrar or some Justice of the Peace :

2. The Registrar shall, in his certificate, refer to the information so received, mentioning the parties who gave it ;—he shall take care that each fact, on which he founds any statement in his certificate, is attested by two witnesses at least, and he shall annex their affidavits to his certificate ;

3. The certificate of the Registrar may be in the Form hereunto annexed, or to the like effect.

Registrar to have copies of or access to all assessment rolls.

4. The Municipality of every City, Town or other local Municipality, shall furnish at its own cost, to the Registrar of the County or Registration division in which it is situate, a certified copy of every valuation roll or assessment in force when this Act comes into effect, or which shall be thereafter made in such municipality, and the Registrar shall keep the same in his office among the records thereof, and shall use the same for the purpose of making such certificates as aforesaid, and generally for the purpose of obtaining and furnishing correct information touching all property within his County or Registration Division, and of making the Index to Estates which he is bound by law to keep :

2. And every such Municipality shall allow every such Registrar free access to any assessment or valuation roll heretofore made, and shall allow him to make such extracts therefrom as he may think proper, and shall cause such extracts to be examined by the Municipal Officer having the custody of such Roll, and to be certified by him, if found correct ;--And such access, and the privileges hereby conferred on any Registrar, shall be used by him for the purposes for which the certified copies of assessment or valuation rolls are hereinabove directed to be used by him.

5. If the property in question has been at any time during the ten years aforesaid in another County or Registration division, any books, entries and documents whereof, relating to such property or a transcript thereof, have not been transmitted to the Registry Office of the County or Registration division in which the property lies, when the certificate is required, the Registrar's certificate shall state this fact, and in any such case the applicant for the Judgment of confirmation shall obtain from the Registrar of such former County or Registration a certificate for the period during which the property was in his County or Registration division, or in any other of which the books, entries and documents affecting such property have been transmitted ; and such Registrar shall, as to such period, have the same duties and powers as the Registrar in whose County or Registration division the property lies at the time of the application for a judgment of confirmation.

Provision where the property has been in another Registration Division and the Registrar first applied has no transcript of the Books, &c.

6. If the applicant is willing that the judgment of confirmation be rendered subject to the hypothecs mentioned in the Registrar's certificate, he shall file, in the Office of the Court, a declaration to that effect, and it shall be so rendered accordingly :

Judgment subject to the hypothecs returned by the Registrar.

2. But if the applicant desires that the judgment of confirmation shall discharge the hypothecs upon the property, he shall, when he files such certificate, pay into Court the price (if any) mentioned in the Title to be confirmed, or which he has made up by bidding in the manner allowed by the said Act ; and if it appears by the Registrar's certificate filed as aforesaid, that there are no charges on the property, and if no opposition is filed, or maintained by the Court,--or if such price be sufficient to pay all the charges mentioned in the said certificate and in the oppositions (if any) filed in the case and maintained by the Court, and all costs,--the judgment shall, in either case, be pronounced purely and simply ;

Proceedings if the applicant wishes to get rid of the said hypothecs.

Price to be paid in.

3. But if such price be not sufficient to pay such charges and costs,--or if there be no price mentioned in the Title to be confirmed,--the Court or any Judge thereof shall, at the instance of the Applicant for the judgment, appoint two *Experts*, and the Applicant shall appoint one, and such three *Experts*, or a

Valuation of the property in certain cases.

majority of them, shall value the property, and report the value thereof on oath, in writing under their hands, to the Court ;

Price or value to be paid in. 4. And if the value so reported be either less than or not greater than the price paid in by the Applicant as aforesaid, such price shall be deemed to be the value of the property, and the judgment shall be pronounced purely and simply ;—but if the value so reported be greater than such price, or if there be no price mentioned in the title to be confirmed, the Applicant shall pay into Court the difference between the price and the value so reported or the whole of the value if there be no price, and the judgment shall then be pronounced purely and simply. 5 10

Life rents, and contingents hypothecs, &c., how dealt with. 7. All life rents (*rentes viagères*) and any hypothec whatever payable in kind or otherwise than in money, found to be chargeable upon the property, the title to which is to be confirmed, shall be valued in money, and the payment thereof to the party entitled thereto shall be secured, or otherwise dealt with according to law and the practice of the Court, in order to the distribution to be made in the case, as shall also any hypothec found to be so chargeable, but depending upon some contingency, event or condition which has not then occurred, or the amount of which is not fixed or valued, or which requires to be valued or ascertained in order to its being payable ;—And any person or persons may be called into Court and made parties to the cause as hereinafter provided, for the purposes of this section. 15 20 25

Calling parties into Court.

Distribution of price or value. 8. The price or value, so paid into Court, shall be distributed by the Court in due course of law, among the opposants (if any) and the privileged and hypothecary creditors mentioned in the Registrar's certificate, according to the order and rank of their respective privileges and hypothecs, and as if each of them had filed an opposition according to the practice heretofore in use : 30

Effect of Registrar's certificate. 2. The Registrar's certificate shall be *prima facie* evidence of the facts therein mentioned ; but any such fact, or any matter to which such certificate relates may be disputed, or the payment or part payment, prescription, or extinction in any way, and in whole or in part, or the non-exigibility for any cause or reason whatever of any hypothec mentioned in the Registrar's certificate, may be alleged and pleaded by any party interested, and the Court may then receive evidence contradicting or modifying any statement or the effect of any statement in such certificate and give judgment accordingly, and no notice of any such proceeding, to or upon any party not appearing in the case shall be necessary unless specially ordered by the Court ; 35 40 45

What may be pleaded against it, &c.

Notice to Registrar in certain cases. 3. But if it be objected that any statement of fact in the certificate is false in any particular involving error or fraud on the

part of the Registrar or in his books, then the Registrar shall have notice of such objection and may appear and defend his certificate, and may obtain and file authentic copies of all deeds or other documents requisite to such defence, and if he is
5 successful in defending his certificate, he shall have his full costs against the party disputing it ;

4. And the Court may order any person interested to be called
in (*mise en cause*) if the purposes of justice require it, and such
person shall then be called in by service of such order person-
10 nally or at his domicile, or by advertisement, as by law pro-
vided, if he be an absentee. Calling parties into Court.

9. The collocation in favor of any non-opposant shall be to
him and his legal representatives or *ayants cause*, and the
amount thereof shall remain in the hands of the Prothonotary
15 until he or they shall demand the same and give a valid dis-
charge therefor. Collocation to non-opposants.

10. Nothing in the foregoing provisions shall prevent any
party from consenting that the judgment of confirmation be
given subject to his claim, or from filing an opposition if he
20 thinks proper ; and he shall be bound to file an opposition, on
pain of losing his claim by default to file the same, if such claim
be founded on any hypothec which the Registrar is not bound to
mention in his certificate. Oppositions may be filed, and must be in certain cases.

11. No valuation by *experts* shall be requisite where the
25 title to be confirmed by the judgment relates to property taken
by the Crown for purposes of public utility, or by any Corpo-
ration or other party under any law authorizing the taking of
such property without the consent of the owner, provided the
price or compensation has been settled by arbitration or *exper-*
30 *tise* under such law. Valuation not requisite in certain cases.

12. No opposition shall be necessary in any case of Sheriff's
Sale or Forced Licitation, in order to preserve the claim upon
the price of the property in question under any hypothec which
the Registrar is bound to include in his certificate : Oppositions not necessary in Sheriff's Sales, &c.

2. But the Sheriff, having the execution, shall procure and
file with his return to the writ,—or the party prosecuting such
Licitation shall procure and file in the Office of the Prothonotary
of the Court having the distribution of the proceeds of the sale,
and before such distribution shall be made,—a certificate of
40 the proper Registrar, such as is mentioned in the second sec-
tion of this Act and made up to the day of the sale, and the ten
years mentioned in the said section shall be reckoned from the
day of sale ; Sheriff, &c., to procure Registrar's certificate.

3. Such certificate shall have the same effect in preserving
the claims founded on the privileges and hypothecs therein
45 Effect of certificate.

mentioned, as provided in the preceding sections with respect to judgments of confirmation of title, and shall be subject to the like incidents and provisions ;

Life rents, &c. 4. All the provisions hereinbefore made in section seven, with respect to life rents, and to contingent and other hypotheses, shall apply in cases of Sheriff's sale or Forced Licitation. 5

Inconsistent enactments repealed. 13. Any provision of the Act first above cited, or of the Act eighteenth Victoria, chapter one hundred and ten to regulate proceedings on Forced Licitations, which is inconsistent with this Act, is hereby repealed ; but no provision of law not inconsistent with this Act shall be affected by it : 10

Rules of practice, &c. 2. Such rules of practice, as may be requisite for carrying out the provisions of this Act in matters unprovided for, and such alterations in any form of notice, judgment, or otherwise, as they think necessary for that purpose, may be made by the Judges of the Superior Court. 15

Act not to apply to pending cases. 14. The foregoing provisions of this Act shall not apply to any case in which proceedings for confirmation of title or for forced licitation have been commenced, or the property has been seized by the Sheriff before the coming into force of this Act. 20

Act 9 G. 4, c. 20, made permanent as amended. 15. The said Act of Lower Canada, ninth George the Fourth, chapter twenty, as hereby amended, is hereby made permanent, and shall remain in force until repealed by the Legislature. 25

Judicial adjudication does not give the purchaser a better title to the property than the party on whom it was sold, had. 16. And for the avoidance of doubts, it is hereby declared and enacted, that no adjudication of any real property by the Sheriff, or in any case of Forced Licitation, has vested or shall vest in the *adjudicataire* any greater or better title to such property than was vested in the party or parties upon whom it was seized, or as belonging to whom it was put up for sale in such case of Forced Licitation ; And that no such adjudication did or shall remove or discharge any servitude to which the property was therefore subject, and that all servitudes in favor of any property so adjudged, have passed and shall pass with it and be enjoyed by the *adjudicataire* and his *ayant cause*, nor shall any opposition to preserve any such servitude be allowed, and if any be made, it shall be dismissed with costs. 30 35

Right of purchaser fearing trouble. 17. If the purchaser of any real property is troubled or has just cause to fear that he will be troubled by any hypothecary or revendicatory action, he shall be entitled to delay the payment of the purchase money until the vendor has removed such trouble, unless the vendor prefers to give security, or unless it was stipulated in the Contract of Sale that the purchaser should pay notwithstanding such trouble or the fear thereof. 40 45

18. No general, legal or tacit hypothec created by or arising out of judgment rendered, or any instrument or document executed or any appointment made, or any act or thing done, happening or registered after *this Act comes into force*, in any of the cases in which alone such hypothec is allowed by the twenty-ninth section of the Registration ordinance aforesaid,— shall bind or affect any real property, unless and until a notice has been filed in the office of the Registrar of the County or Registration division in which such property lies, specifying and sufficiently describing such property, and stating it to be then in the possession of the party against whom such hypothec is registered, as his property :

General hypothec not binding until notice given of the special property affected.

2. Such notice may be filed either at or after the registering of such legal or tacit hypothec, and may be in the form in the Schedule to this Act, or in any other form to like effect, and may be given by the party in whose favour the hypothec exists, or his attorney or legal representative, or if such party be the Crown then by any person holding office under the Crown,— or if such party be a married woman or a minor or interdicted then by the husband, curator, tutor or subrogate-tutor of each party, or in their default by any relation or friend of such party ;

By whom notice may be given and in what form.

3. Any notice so filed shall be registered at length in a Book to be kept for the purpose by the Registrar, and the volume and page, in or on which it is so registered, shall be referred to in the margin of the original registration of the hypothec ;

Registering notice.

4. In any such notice, if the instrument or document, under which the hypothec arises, is registered in the same County or registration Division, or is registered at the same time when the notice is given, it shall be sufficient to refer distinctly to it, in any way by which it can be clearly identified, without reciting it at length ;

Reference to the instrument creating the hypothec.

5. The special hypothec upon the property mentioned in any such notice, shall not, in any case, subsist or take rank as subsisting, before the filing of the notice in the office of the proper Registrar,—and if it be upon the real estate of a married man for securing the restitution and payment of any dotal sum of money, claim or demand which the wife has upon her husband, it shall not, by reason of such notice, subsist at or be accounted from any earlier period than is provided in such case by the twenty-ninth section of the Registration Ordinance, fourth Victoria, chapter thirty.

From what time the special hypothec shall date.

19. The registration of any privilege or hypothec may be renewed at any time, and from time to time, by filing with the Registrar, in whose County or Registration the property charged with such hypothec is situate, a notice, in the form of the Schedule C, to this Act or to the like effect, and such notice

Renewing Registration : Notice.

shall sufficiently specify and describe the said property and shall be made in the manner required with respect to the notice mentioned in the next preceding section, and by the like parties and subject to the same conditions :

Notice and
Registration
thereof.

2. Such notice shall also mention the name of the party in possession of the property affected by it, at the date thereof, and shall be registered in a book to be kept by the Registrar for the purpose, and the volume and page on which it is registered shall be referred to in the margin of the original registration of the hypothec itself ;

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Effect of re-
newal.

3. Such renewal of registration shall not interrupt the prescription of the hypothec to which it relates, and if wrongfully made shall be subject to radiation, in like manner as the original registration of a hypothec.

Index to
notices.

20. An index to the Books used for the registration of notices under the two next preceding sections respectively, shall be kept and written up daily by the Registrars, and every such notice shall be indexed under the name of the party in whose favor the hypothec subsists,---under the name of the party against whom it subsists,---and under the name of the owner of the property as mentioned in the notice.

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And in order to facilitate the proof, for purposes of registration, of the execution before witnesses of titles to real estate, and of certificates of discharge :—

On what affi-
davit docu-
ments may be
Registered
under s. 40 of
4 V. c. 30.

21. The deeds, conveyances, wills and writings for the registration of which at full length provision is made in and by the fortieth section of the said Registration Ordinance, fourth Victoria, chapter thirty, may, if executed and published in any place in this Province, either within or without the Registration Division in which the lands therein mentioned lie, be registered at full length, if an affidavit, sworn before one of the Judges of the Court of Queen's Bench or Superior Court, or before any Commissioner for taking affidavits, either in Upper or Lower Canada, to be used in the Superior Court, or before a Judge of any of the Superior Courts of Law or Equity,---or any Judge of a County Court within his County, in Upper Canada,---be brought with such deed, conveyance, will or writing to the Registrar, wherein one of the witnesses to the execution of such deed, conveyance or writing, or to the signing and publishing of such will, swears that he saw the said deed, conveyance or writing executed, or such will signed and published by the testator ;---or if, when such deed, conveyance, will or writing, is brought to the Registrar's Office to be registered at full length as aforesaid, one of the witnesses to the execution of such deed, conveyance or writing, or to the signing and publishing of such will, makes oath before the said Registrar or his Deputy that he saw the said deed, convey-

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ance or writing executed or such will signed and published by the testator.

22. When any mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim is registered, if afterwards a certificate be brought to the said Registrar, signed by the mortgagee, the creditor, the plaintiff, the cognizee, or the hypothecary or privileged creditor, named in such judicial act or proceeding, privileged or hypothecary right or claim, his heirs, administrators or assigns, and attested by two witnesses, whereby it appears that the money due on such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, has been paid in whole or in part, which witnesses shall, upon their oath before any one of the Judges of the Court of Queen's Bench or Superior Court, or before any Commissioner for taking affidavits, either in Upper or Lower Canada, to be used in the Superior Court, or before a Judge of any of the Superior Courts of Law or Equity, or any Judge of a County Court, within his County, in Upper Canada, or before the Registrar or his Deputy, prove such moneys to be paid or in part paid, and that they saw such certificate signed by the party granting it,—then the Registrar shall make an entry in the margin of the Register, against the Registry of such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, that such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, has been wholly or in part satisfied, according to such certificate.

On what affidavit satisfaction or part satisfaction of any registered hypothec may be registered.

23. It shall be imperative upon the Municipal Council of every Electoral County which has not become a County for Registration purposes, by complying with the requirements of the first section of an Act passed in the eighteenth year of Her Majesty's Reign, and chaptered ninety-nine, to comply with the same before the day of 186 :

Each Electoral County bound to become a Registration County before a certain time.

2. And if the Municipal Council of any County has not, upon the said day, fixed the place at which its sittings shall be held, the Governor shall fix the same by Proclamation,—and if there be not at the place fixed for the purpose aforesaid by the Municipal Council or by the Governor, a proper place for the County Registry Office, with a sufficient metal Safe or fire proof vault for the safe keeping of the books and papers thereof,—the Governor shall cause a proper building, with a proper metal safe or fire proof vault to be purchased or constructed, by the Commissioner of Public Works, for and at the expense of such Municipal Council, and a Proclamation shall then issue declaring such County a County for Registration purposes, and the other provisions of the said Act shall apply to the place named in such Proclamation ;

Provision if the Municipal Council does not take the requisite measures for that purpose.

Recovery of the cost of the proper building, vault, &c.

3. The cost of the said building, and of the safe or fire proof vault, shall be paid by the Municipality of the County ; and the Secretary-Treasurer of such County shall pay the amount of such cost on demand and out of any moneys in his hands belonging to the County, and in preference to all other claims whatsoever except moneys (if any) payable to the Receiver General on account of the Consolidated Municipal Loan Fund, to such person as the Commissioner of Public Works shall appoint to receive the same, and if any Secretary-Treasurer refuses or neglects to pay the said amount accordingly, he shall himself be personally liable therefor, and the sum may be recovered from him by the person appointed to receive it by the said Commissioner, whose official certificate of the amount and order for the payment thereof shall be sufficient and conclusive evidence in any action for the recovery thereof ;

Every County bound to furnish proper safe or vault. Proceedings in default.

4. And if there be not on the said day of , one thousand eight hundred and sixty, in any County then established for Registration purposes, and at the place where the Registry Office is kept, a proper place for the Registry Office, with a sufficient metal safe or fire-proof vault for the safe keeping of the books and papers thereof, the Governor shall cause a proper building, with a proper metal safe or fire-proof vault, to be purchased or constructed by the Commissioner of Public Works, for and at the expense of the municipal Council of the County, and the costs thereof shall be paid and may be recovered in the manner provided in the next preceding paragraph.

Council of every Registration County bound to procure transcripts, &c., of entries in other Counties, &c., in which any part of the present County was once included.

24. It shall be obligatory on any Electoral County which has become or hereafter becomes a Registration County, to provide the requisite funds and to obtain for the Registrar thereof, from the Registrar in whose office there is registered any deed, instrument or document affecting real property in such Registration County, copies thereof and of all entries relative thereto, or of such abstracts of registered documents as may be desired, certified by such last mentioned Registrar fairly transcribed and bound,—as provided by the eighth and ninth sections of the Act *eighteenth* Victoria, chapter ninety-nine, and for the purposes therein mentioned ;—unless such Municipal Council has already procured the same :

Provision in case of default.

2. If the Municipal Council of any County, being a Registration Division at the passing of this Act, neglects to comply with the preceding requirements of this section before the day of next ;—or if the Municipal Council of any County, becoming a Registration County after the passing of this Act, neglects to comply with the said requirements, within months after it becomes a Registration County,—then the Registrar of such County shall procure the copies aforesaid from the proper Registrar or Registrars and shall recover the cost thereof from such Municipal Council.

25. The Governor may, by Proclamation, direct that the Registrars for the Registration Divisions of Quebec and Montreal, or either of them, shall, from and after a day to be named in the Proclamation, keep separate Registers and Books 5 for the registration of deeds and instruments affecting real property lying within, and real property lying without the limits of the said Cities respectively, as bounded for Municipal purposes ; and such Registers and Books shall thereafter be kept by the Registrar or Registrars mentioned in any such Proclamation, and all the provisions of the Registry Laws shall 10 apply to them and to the Registrars bound to keep them as if they were directed to be kept by the said Laws.

Governor may cause separate books to be kept for the City and Country parts of the Registration Divisions of Quebec and Montreal.

26. The Governor in Council may, from time to time, by orders in Council, make Tariffs of fees to be taken by Registrars, for the several services and duties performed by them, and 15 such fees shall then be substituted for those fixed by the laws now in force ; and may, in like manner, from time to time, alter the form of any Books, Indexes, or other official documents to be kept by Registrars, or direct new ones to be kept ; and any 20 form, thereby prescribed, shall be substituted for that now prescribed by law for the like purposes, or kept in addition to those now prescribed, as the case may be :

Governor in Council may make tariffs of fees, &c.

2. Such orders in Council, or any of them, may, from time to time, be amended or repealed and others made instead 25 thereof, and any such order may apply to all the Registration Counties or Divisions or to one or more only, as may be therein provided ;

Amending such orders, &c.

3. Every such order shall be published in the *Canada Gazette*, and shall take effect from a day to be therein appointed, not 30 being less than from the day on which it is so published.

Publication of such orders.

27. And whereas for the more effectual working of the Registry Laws, it is desirable that there should be in each Registry Office correct plans of the Cities, Towns, Villages, 35 Parishes and Townships, or portions thereof, in the County or Registration Division to which such office belongs, which plans should show the sub-division of such localities into lots, and serve as a basis for the description of the property which the deeds and instruments registered in such office relate, so 40 that the Index to Estates required by the Registry Laws may be easily and correctly made and kept, therefore,—

Recital.

The duplicate of the Schedule of each Seigniority which, by the second section of the Seigniorial Amendment Act of 1859, (22 V. c. 48,) was directed to remain in the hands of the Commissioners until disposed of by the Governor in Council,— 45 shall be deposited in the Office of the Commissioner of Crown Lands, as shall also all plans and maps and other like docu-

Deposit of duplicate Seigniorial Schedules, maps, &c., in Crown Lands.

ments prepared under the direction of the said Commissioners, or which have come into their hands as such Commissioners.

Commissioner to have plans and books of reference made.

28. The Commissioner of Crown Lands shall cause to be prepared, under his superintendence, a correct plan of each City, Town, Incorporated Village, Parish, Township, or part thereof, in each County or Registration Division in Lower Canada, with a Book of Reference to such place, in which book shall be set forth-- 5

What they shall show.

1. A general description of each lot or parcel of land shewn on the plan to which it refers ; 10

2. The name of the owner of each separate lot or parcel of land or of any estate therein, so far as it can be ascertained ; and--

3. Every thing necessary to the right understanding of such plan for the purposes of this Act ; 15

4. And each separate lot or parcel of land, shewn on the plan, shall be referred to in the said book, by a number which shall be marked on it upon the plan, and entered in the said book, and the Commissioner may adopt any means he thinks to ensure the correctness thereof. 20

Plans, &c., to be made up to a date certain.

29. Each of the said Plans and Books of Reference shall be made up to some precise date, up to which it shall be corrected as far as possible, and this date shall be marked upon it--and it shall be signed by the said Commissioner, and remain of record in his office. 25

Copies to be deposited with Registrars.

30. A copy of each such Plan and Book of Reference, certified by the Commissioner of Crown Lands, shall be deposited in the Office of the Registrar in whose County or Registration Division the place to which they refer is situate, and shall there remain open to inspection of the public during office hours ; They shall not be altered by the Registrar in any way, but if he ascertains that there was any error therein at the time at which they bear date, he shall report such error to the Commissioner of Crown Lands, who, on being satisfied thereof, and of the correction to be made, shall correct the original and the copy accordingly, certifying such correction under his hand : 30 35

How corrections may be made.

2. Such correction shall not be so made as to alter the number of the lots or parcels of land on the plan, but any lot or parcel of land found to have been omitted, shall be inserted and distinguished by a letter or some other device which will not interfere with the original numbering ; nor shall any correction be made in consequence of any change of ownership or division of any lot happening after the date up to which they were made. 40 45

31. In the Seigniorial portions of Lower Canada, the Schedules made by the Seigniorial Commissioners, and the plans made under their superintendence, shall serve as the basis for the plans and books of reference to be made under this Act :

On what basis the plans, &c., shall be made,—in Seignories.

2. In the Townships the Commissioner of Crown Lands shall use such maps or surveys, or cause such surveys to be made as he shall deem best adapted to ensure the correctness of the plans and books of reference to be made as aforesaid ; but the original numbering of the lots and concessions shall always be preserved, and any sub-divisions thereof shall be distinguished, in the country parts, by letters or other devices, as parts of such original lots, and in Towns and Villages by subordinate numbers or other devices, but always as parts of the original lots, which shall be also referred to.

In townships.

32. The said Commissioner may grant certified copies of any such Seigniorial Schedule, Plan or Book of reference as aforesaid, or of any part thereof, or extracts therefrom, which shall be received as evidence, and have the same effect as the original Schedule, Plan or Book of reference would have so far as regards the matters shewn or stated in such certified copy or extract.

Commissioner may give certified copies.

33. The number of any lot or parcel of land on the plan and in the book of reference of any place when deposited in the office of the proper Registrar, shall be the proper designation of such lot or parcel of land, and shall always be a sufficient description thereof,—in any deed, instrument or document,—and any lot or parcel formed out of part of such numbered lot or parcel, shall be properly designated as being part thereof, describing what part thereof it is,—and stating its boundaries and abutments ;—and if it is composed of parts of more than one such numbered lot or parcel, then it shall be properly designated as being so composed, mentioning what parts of each numbered lot it contains :—

Official number to be the proper designation of any lot.

2. It shall be the duty of Notaries passing *Actes* respecting lots or parcels of land, in any place with respect to which a plan and book of reference have been filed in the office of the proper Registrar, to describe them as far as practicable by reference as aforesaid, to the numbers in such plan and book, and if any such lot or parcel does not comprise the whole of a lot bearing a number in such Plan or Book, then to state what part or parts of one or more such numbered lot it comprises ; and it shall be the duty of the Registrar to ascertain as far as possible of what numbered lots or parcels of land any lot or parcel of land affected by any deed or instrument registered in his office, and not so described, is composed ;

Notaries to refer to official numbers in their *Actes*.

3. If in any such *Acte* or other instrument or document to be registered, there is no description of the property to which

Provision if the official

number is not mentioned in any registered *Acte*, &c.

it relates by reference to a numbered lot or numbered lots on the Plan and Book of reference deposited in the Registry office of the County or registration division for the place in which such property is situate, it shall be the duty of the party, causing such *Acte*, instrument or document to be registered, to file, with the Registrar, a notice containing such description as aforesaid ;—and the registration of such *Acte*, instrument or document shall not be deemed complete or affect the property therein mentioned, until such notice be filed, which notice shall be in the form or to the like effect ;

Such number, &c., must be referred to in certain notices.

4. And no description of any real property in any Notice of application for confirmation of Title, Sheriffs' notice of sale, or notice of sale by forced licitation, shall be held to be sufficient, unless it be such a description as is required by this section for the purposes of Registration.

Governor to appoint time for plans, &c., to be in force.

34. Whenever the Plans and Books of reference, with respect to any County or Registration Division, have been deposited as aforesaid, in the office of Registrar thereof, the Governor in Council may declare the same by Proclamation ; and from and after the day to be appointed for the purpose in such Proclamation, but not before, the next preceding section shall be in force in such County of Registration Division, and with respect to real estate therein ; and so soon as such Plans and Books of reference are deposited, the Registrar shall commence to prepare his Index to Estates.

Duty of Registrar after such time.

35. From and after the day appointed in any such Proclamation as that on which the thirty-third section shall apply to any County or Registration division, the Registrar thereof shall make and write up regularly, day by day, the Index of Estates, entering under each lot or parcel of land separately mentioned in any Plan and Book of reference, deposited in his office, a reference to every entry *thereafter made* in his other Books affecting such lot or parcel of land, so as to enable him or any other person easily to ascertain all the entries affecting it, *made after that time* ; and for any disobedience to or neglect of the requirements of this section, the Registrar shall incur a penalty of dollars, in addition to any other punishment or liability to which he may be subject therefor.

Penalty for neglect.

Governor may cause amended plans to be made.

36. The Governor in Council may direct an amended Plan and Book of reference to be made for any locality, and a certified copy thereof to be deposited with the proper Registrar, whenever the sub-division of lots in such locality appears to him to require it, and may, by Proclamation, declare that from a day to be appointed therein, such amended Plan and Book shall be used in conjunction with, and in aid of those theretofore in use ;—and from and after such day the provisions of the the three next preceding sections shall apply to such amended Plan and Book of reference as they did before to those there-

tofore in use; but every such amended Plan and Book of reference shall be based upon and refer to those originally deposited for the same locality, and new sub-divisions shall be distinguished by letters or other devices, as parts of the numbered lots in the original Plan and Book of reference.

- 37.** Whenever any lot of land shall be divided by the owner thereof into Town or Village lots, such owner shall file in the office of the Commissioner of Crown Lands, a correct plan and book of reference of such land, certified by the owner, (and describing such land by reference to the official numbers, if an official plan of the place in which it lies has been deposited under this Act,) on which plan the lots into which it is divided shall be shewn and designated by numbers; and such plan and book of reference shall be examined by the said Commissioner, and when found correct, shall be signed by him, and filed in his office, and he shall transmit a copy thereof, certified by him, to the Registrar of the County or Registration Division in which the lands are situate, there to remain for the same purposes for which the plans and books of reference, mentioned in the preceding sections, are to be used, and as if it were one of such plans and books of reference;—and for any default to file such plan in the office of the Commissioner of Crown Lands, the person who ought to have filed the same shall incur a penalty of _____ dollars.
- 38.** The word “hypothec,” in this Act, includes privileges, liens and all other charges or incumbrances affecting real estate;—And the expression “Registration Division,” includes any County for Registration purposes, as well as any Registration Division.
- 39.** All the provisions of the Registration Ordinance, Fourth Victoria, Chapter Thirty, or of any other Act or law, inconsistent with those of this Act, are hereby repealed.
- 40.** The foregoing provisions of this Act shall come into force and effect on the *first day of September next after its passing* and not before; except that the Governor in Council may cause the Plans and Books of reference herein mentioned to be commenced and made ready at any time after the passing of this Act, and that it shall be the duty of all Registrars and of all Municipal Councils to which it applies, to take such measures from and after its passing as may be requisite for carrying its provisions into effect so soon as they come into force.

Plans of land divided into village lots to be deposited.

Interpretation.

Inconsistent enactments repealed.

Commencement of this Act.