

The Provincial Statutes of Lower-Canada, Being the third session of the thirteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1830.

10 & 11 George IV – Chapter 8

An Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Stanstead, Shefford and Missiskoui. (26th March, 1830.)

MOST GRACIOUS SOVEREIGN,

Whereas it is expedient to establish within certain Counties of this Province, Offices for the enregistration of all Deeds concerning immoveable property situate within such Counties: May it therefore please your Majesty that it may be enacted, and be it 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 Lower-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 it is hereby enacted by the authority of the same, that from and after the passing of this Act there shall be established in each of the Counties of Drummond, Sherbrooke, Stanstead, Shefford and Missiskoui [Missisquoi], an Office for the enregistration of all Acts or deeds in law and instruments in writing, by which immoveable property shall or may be transferred, disposed of or incumbered in any Way, whether the same be by bargain and sale, enfeoffment, gift, mortgage, hypothèque, exchange, devise or marriage contract, and that it shall be lawful for the Governor, Lieutenant Governor or Person administering the Government of this Province, to name the place in each County where such Register Office shall be kept, and to nominate and appoint a person of sufficient integrity and ability, to each and every Office that shall or may be established, and as often as occasion may require, under the condition hereinafter mentioned, who shall faithfully cause to be enregistered all deeds and instruments in writing by which immovable property held in free and common socage or otherwise within the Counties aforesaid, maybe transferred, alienated or affected, that shall be presented to in the order in which they may be presented to him, in manner hereinafter mentioned.

II. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, no Act or Deed in law or instrument in writing, by which a mortgage or hypothèque has been or is created, shall bind or affect as a mortgage, incumbrance or hypothèque, any immoveable property situate within the counties aforesaid, unless such Act or Deed in law or instrument in writing, be duly enregistered, in the manner hereinafter directed, within twelve months next after the passing of this Act.

III. And be it further enacted by the authority aforesaid, that all Acts or Deeds in law or instruments in writing, which may convey, alienate, bind or affect any immovable property held in free and common soccage or otherwise, within the counties aforesaid, made and executed from and after the passing of this Act, shall be duly enregistered in the manner hereinafter directed, and that no such Act or Deed in law or instrument in writing, shall be binding, or have any force or effect as a transfer, conveyance, mortgage, hypothecation or incumbrance, until the same shall have been so duly enregistered.

IV. And be it further enacted by the authority aforesaid, that when any immovable property shall or may have been devised or bequeathed by last Will or Testament, the said last Will or Testament shall not bind or affect such immovable property unless that part of the said last Will or Testament which contains the devise or bequest of such immovable property, be enregistered at full length in the said Office of Registration, within one year from the decease of the testator or devisor, together with the name of the testator or devisor, the names of the witnesses to the said Will, the time and place at which the said Will shall have been executed, and the day and hour at which the same shall have been deposited at the said Office, and if the said last Will and Testament shall have been made and executed before two Notaries, or one Notary and two witnesses in conformity to the laws and usages heretofore existing in this Province, then and in such case the name of the Notaries or Notary and witnesses shall be recorded in the said book of enregistration.

V. Provided always and be it further enacted by the authority aforesaid, that nothing in the foregoing section contained, shall extend or be construed to extend to prejudice in any way persons absent from the Province, concerned or interested in any last Will or Testament, which may bind or affect any immovable property situated in any of the said counties, who shall be entitled to have such last Will or Testament enregistered as aforesaid, within five years from the decease of such testator or devisor.

VI. Provided further and be it enacted by the authority aforesaid, that nothing in this Act contained shall extend or be construed to extend to prejudice the rights of minors, or persons incapable of exercising their rights, who shall, nevertheless, be bound and obliged within one year from and after the time at which such minors or persons shall have attained the age of majority, or shall have become capable of exercising their rights, to enregister such last Wills and Testaments, in the manner directed by this Act, in like cases which enregistration shall have full force and effect.

VII. And be it further enacted by the authority aforesaid, that where any immovable property, held in free and common soccage within any of the aforesaid counties, shall be specially charged by any contract of marriage, the clause or clauses of such contract of marriage so specially charging any such immovable property therein described, shall be enregistered in the book of Registry aforesaid, and no contract of marriage, creating, or intended to create a charge upon any such immovable property, shall bind or affect the same in any way, unless the immovable property so intended to be charged, be therein

especially mentioned, set forth, and described, any law, usage, or custom to the contrary in any wise notwithstanding.

VIII. And be it further enacted by the authority aforesaid, that every person appointed to hold the office of Registrar, shall before entering upon the execution of the duties of the said office, be sworn before a judge of the Court of King's Bench or the Judge of the Provincial Court for the Inferior District in which the County is situated, wherein he is to act as such Registrar, an oath in the words following:—"I, A B. do solemnly promise and swear, that I will faithfully and impartially perform and execute the office and duty of Registrar, in all things as directed and required by an Act, of the Legislature of this Province, intituled, 'An Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Stanstead, Shefford, and Missiskoui,' So help me God:" which oath shall be recorded in the office of the Prothonotary or Clerk of the Court in which such Justice or Provincial Judge officiates, and for granting a Certificate of the said oath, and for recording the same, such Prothonotary or Clerk shall be entitled to demand and receive two shillings currency, and no more, and every Registrar at the time of his being so sworn shall enter into a recognizance with two or more good and sufficient securities, not to exceed in any case the number of four, to be approved of by the said Justice or Provincial Judge, by a writing under their hand and seal before such Justice or Provincial Judge, that is to say, the Registrar in the sum of two thousand pounds, currency, and each of the sureties in a proportionate sum, amounting in all to a like sum of two thousand pounds, currency, unto His Majesty, his heirs and Successors, 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 said recognizance to remain amongst the records of the Court, for which the said Prothonotary or Clerk shall be entitled to demand and receive the sum of two shillings, currency, and no more.

IX. Provided nevertheless, and be it further enacted by the authority aforesaid, that the said sureties so to be given, shall be bona fide proprietors of certain immoveable property to the value of the sum or amount for which they may become bound or liable in and by the said recognizance; and that when any Registrar shall die, or be removed, or shall resign his Office, and that within the space of three years from and after the death, removal, or resignation of any Registrar, no misbehaviour appear to have been committed by such Registrar in the execution of his said office, then and in such case, at the end of the said three years, after the death, removal, or resignation of any Registrar, the recognizance so executed and entered into, shall become void and of no effect.

X. And be it further enacted by the authority aforesaid, that each of the Registrars so appointed, shall provide a bound book of blank strong paper, and from time to time as may be needful, other such books, marking the first number one, and so on in numerical order, fit and proper for enregistering in manner and form as hereinafter directed, all Acts or Deeds in law, or instruments in writing, intending to convey, alienate, or incumber in any way, any immoveable property, situate and being within the County, wherein the said Registrar shall faithfully enregister or cause to be enregistered in the manner by this Act directed, and in the order and sequence in which the same shall come to his hands, numbering each act,

deed, or instrument in writing in that order, and not in the order of dates, every such act, deed, or instrument in writing, for the purpose of conveying, alienating, or incumbering of any such immoveable property, and upon every act, deed, or instrument in writing so produced to him, the said Registrar, he shall respectively endorse the number thereof, and sign a certificate thereon, mentioning the year, the day of the month, and hour of the day on which such act, deed, or instrument in writing was by him received, and expressing also in what book or volume, and on what page or pages thereof the same is enregistered, which said act, deed, or instrument in writing, will, or contract of marriage, shall then be returned to the person from whom it was received, and all Certificates from such Registrars shall be taken and allowed in all Courts of this Province, as evidence of such respective registration, and there shall be entered on the margin of the Registry Book, over against the Registry of each act, deed, or instrument in writing, the number thereof, and the year, the day of the month, and hour of the day when the same, came to the hands of the Registrar, and every Registrar shall keep an alphabetical index for each book or volume of the names of all venders and purchasers of any immoveable property, and of all other parties of any act, deed, or instrument in writing, operating or intending to convey or incumber in any way any immoveable property, and the entry of every such act, deed, or instrument in writing upon the Registry Book, shall be signed by the Registrar or his Clerk or Deputy, with his full signature, and every entry on the margin thereof, with the initials of his name, or of his Deputy or Clerk.

XI. And be it further enacted by the authority aforesaid, that every Registrar for each of the aforesaid Counties shall keep Duplicate Copies of all such Books and alphabetical indexes as are directed to be kept for each of the counties aforesaid, by this Act, which every such Registrar or his Deputy or Clerk shall on or before the thirty-first day of December of each and every year convey or cause to be conveyed to the office of the Provincial Secretary for such purposes as to justice may appertain.

XII. And be it further enacted by the authority aforesaid, that the Registrar for each county shall have the power to nominate and appoint, and shall nominate and appoint a Deputy or Clerk, for all whose acts in the execution of the said office the said Registrar and sureties shall be accountable, to assist when necessary in the performance of the duties of the said office or in the absence of the said Registrar, and that Upon the death of the said Registrar, or upon the vacancy of the said office in any way, the said Deputy or Clerk shall take possession of the books of registry, and of all papers appertaining to the said office, and shall perform all the duties thereof until another Registrar shall be appointed: Provided always that the said deputy or clerk, when so appointed, shall take the same oath as deputy or clerk as is prescribed by this act to be taken by every Registrar, before a Magistrate or Justice of the Peace, who is hereby authorized and required to administer the same, a certificate of which oath, signed by such Magistrate, shall be forthwith deposited in the office of the Clerk or Prothonotary in which the oath taken by the Registrar, in conformity to this act, shall have been recorded, and shall suffer all pains and penalties which may be ordered by this Act against the Registrar.

XIII. And be it further enacted by the authority aforesaid, that every Registrar so to be appointed, or his Deputy or Clerk, shall give due attendance at his office every day in the year, (Sundays and holidays excepted,) at all hours, from sun-rise to sun-set, for the despatch of all business belonging to the said office, and every such Registrar, as often as he shall be required, shall make search of all acts, deeds or instruments in writing, enregistered as aforesaid, and give certificates to any person respecting the same, under his hand if required, and every such Registrar, shall be entitled to demand and receive forthwith for the entry and registration of any such act, deed, or instrument in writing, the sum of two shillings currency and no more: Provided the same, does not contain over six hundred words and if there be more than, six hundred words, then and in that case there shall be allowed a sum not exceeding sixpence for every hundred words above six hundred; and for every search in the said Office, without a certificate being required, and where the names of the parties to the act, deed, or instrument in writing are given, the Registrar shall be entitled to demand and receive one shilling currency and no more, and where the description of the immoveable property is given with a Certificate, thereof, the said Registrar or his Deputy or Clerk, shall be entitled to demand and receive one shilling currency for every search and certificate, and no more, and for every certificate of Registry, the said Registrar, his Deputy or Clerk, shall be entitled to demand and receive one shilling currency and no more.

XIV. And be it further enacted by the authority aforesaid, that if any such Registrar or his Deputy or Clerk, shall neglect to perform his duty in the execution of the duties of the said Office, according to the rules and directions in this Act mentioned, or shall, commit, or suffer to be committed any undue or fraudulent practice in the execution of the duties of the said Office, and be thereof lawfully convicted, then such Registrar shall forfeit his said Office, and pay treble damages, with full costs of suit, to every, person or persons that may or shall be injured thereby, to be recovered from the said Registrar or his Deputy or Clerk, jointly or severally, soldairement by action in any Court of competent jurisdiction in this Province.

XV. And be it further enacted by the authority aforesaid, that whenever any act, deed, or instrument in writings by which money is, or shall appear to be due or which may bind or affect any immoveable, property, so as aforesaid enregistered, shall be paid off, redeemed or discharged, wholly or in part, the Registrar of the County wherein the property is situate, shall where thereunto required by any party interested, make an entry in the margin of the registry book, over, against, or opposite the original entry or registry of the act, deed, or instrument in writing, so affecting or binding such immovable property, and which may have been so paid off redeemed or discharged of the said payment, redemption or discharge for which said entry the Registrar his Deputy or Clerk, shall be entitled to demand and receive the sum of one shilling and three pence currency and no more.

XVI. And be it further enacted by the authority aforesaid, that when as often as the said Office shall become vacant by death of the said Registrar, the same shall be signified and made known without delay, to the Governor, Lieutenant-Governor, or, person administering the Government, by the Justices of the Peace, respectively nearest the residence of any such Registrar, upon the receipt of which information the Governor, Lieutenant-Governor, or

person administering the Government, shall or may, within three months appoint a fit person to fill the said Office.

XVII. And be it further enacted by the authority aforesaid, that if any person or persons shall at any time forge or counterfeit any act, deed, or instrument in writing, or certificate hereinbefore mentioned, or make, or cause to be made any false entry in a Register, and be thereof lawfully convicted, every such person or persons shall incur and be liable to such pains and penalties as in and by an Act of the Parliament of England, made in the fifth year of Queen Elizabeth, intituled, "An Act against forgers of false deeds and writings" are imposed upon persons for forging deeds, charters, and writings.

XVIII. And be it further enacted by the authority aforesaid, that this Act shall remain in full force and effect until the first day of May, one thousand eight hundred and thirty-eight, and no longer.