

C A P. XXX.

An Ordinance to prescribe and regulate the Registering of Titles to Lands, Tenements and Hereditaments, Real or Immoveable Estates, and of Charges and Incumbrances on the same : and for the alteration and improvement of the law, in certain particulars, in relation to the Alienation and Hypothecation of Real Estates, and the Rights and Interest acquired therein.

Preamble.

WHEREAS great losses and evils have been experienced, from secret and fraudulent conveyances of real estates, and incumbrances on the same, and from the uncertainty and insecurity of titles to lands in this Province, to the manifest injury, and occasional ruin of purchasers, creditors, and others; And whereas the registering of all titles to real or immoveable estates, and of all charges and incumbrances on the same, would not only obviate these losses and evils for the future, but would also with some alteration of the existing laws, whereby the removal of inconvenient and inexpedient restraints and burthens on the alienation of real estates might be effected, greatly promote the agricultural and commercial interests of this Province, and advance its improvement and prosperity;—Be it therefore Ordained and Enacted by His Excellency the Governor of this Province of Lower-Canada, by and with the advice and consent of the Special Council for the affairs of this Province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, “ *An Act to make temporary provision for the Government of Lower-Canada,*” and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the second and third years of the Reign of Her present Majesty, intituled, “ *An Act to amend an Act of the last Session of Parliament, for making temporary provision for the Government of Lower-Canada;*” and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the third and fourth years of the Reign of Her present Majesty, intituled, “ *An Act to Re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada;*” and it is hereby Ordained and Enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that a memorial of all deeds, conveyances, notarial obligations, contracts, and instruments in writing, which from and after the day on which this Ordinance shall come into force and effect, shall

Memorials of Deeds, Wills, and various other Instruments in writing may be registered.

shall be made and executed, and of all Wills which shall be made and published, by any devisor or testatrix who shall die after the day last mentioned, and of all judgments, judicial acts and proceedings, recognizances, appointments of tutors or guardians to minors, and of curators to interdicted persons, and of all privileged and hypothecary rights and claims, and incumbrances, from whatever cause they may result, and whether produced by mere operation of law or otherwise, which shall be entered into, made, acquired, or obtained after the day last mentioned, or concerning, or whereby any lands, tenements, or hereditaments, real or immovable estates in this Province, shall or may be alienated, conveyed, devised, hypothecated, mortgaged, charged, or in any manner or way affected, may be registered, in such manner as is hereinafter directed; and that every such deed, conveyance, notarial obligation, contract and instrument in writing, judgment, judicial act and proceeding, recognizance, privileged and hypothecary right and claim, and incumbrance, which shall after the day last mentioned, be entered into, made, executed, acquired or obtained, shall be adjudged to be inoperative, void and of no effect, against any subsequent *bona fide* purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for or upon valuable consideration, unless such memorial thereof, as by this Ordinance is prescribed, shall have been registered before the registering of the memorial of the deed, conveyance, notarial obligation, contract, instrument in writing, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, or incumbrance, under which such subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor, or incumbrancer, shall claim; and that every such device by Will shall be adjudged to be inoperative, void, and of no effect, against any subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for or upon valuable consideration, unless a memorial of such Will be registered, in such manner as is hereinafter prescribed; and that every such appointment of a tutor to a minor or minors, and of a curator to a person or persons interdicted, shall be adjudged to be inoperative in conferring or carrying with it, any hypothec or hypothecary right whatever, and be void and of no effect, against any subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor, or incumbrancer, for or upon valuable consideration, unless a memorial of such appointment of a tutor or curator shall have been registered, in such manner as by this Ordinance is prescribed. Provided always that no notice or knowledge, of any prior unregistered sale, grant, mortgage, hypothec, privilege or incumbrance, of or upon any lands, tenements or hereditaments, subject to enregistration, given to or possessed by any party, to whom or in whose favour any subsequent sale, grant, mortgage, hypothec, privilege or incumbrance of the

Deeds &c. to be inoperative against subsequent purchasers &c. in certain cases.

also devises by wills.

And appointments of tutors and curators.

Respect to prior unregistered sales, mortgages, &c.

same.

same lands, tenements, or hereditaments, or of any part or parcel thereof, duly unregistered, may have been made or created, shall vitiate, or in any wise affect, any right, title, claim or interest whatever, so derived to and vested in any such subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for a valuable consideration; and that each and every person who, knowing the existence of any such unregistered prior sale, grant, mortgage, hypothec, privilege, or incumbrance, or of or upon any lands, tenements or hereditaments as aforesaid, shall fraudulently make any such subsequent sale of the same lands, tenements or hereditaments, or of any part or parcel thereof, shall be guilty of a misdemeanor, and, being thereof duly convicted, shall be liable to such imprisonment not exceeding twelve calendar months, and also to such fine and penalty not exceeding five hundred pounds current money of this Province, as the court before whom the conviction shall take place shall think it right to inflict.

Privileged debts not requiring to be registered.

II. Provided always, and be it further Ordained and Enacted, that it shall not be necessary to register any memorial as aforesaid, for arrears of *cens et rentes*, or rents due to the seignior, or lord of the fee, for a period not exceeding seven years or for seigniorial services or dues, other than *lods et ventes*, or for arrears of *rentes foncières*, or ground rents for any period not exceeding seven years, nor for the expenses of affixing seals for safe custody, or for making an inventory, when required by law, nor for costs of suit incurred for the common benefit of creditors, nor for funeral expenses, and those of the last sickness, nor for servants' wages for any period not exceeding two years and that to these several descriptions of privileged debts, the provisions of this Ordinance shall not extend.

The registration required of certain deeds, &c. shall not operate to the prejudice of certain persons.

III. Provided also, and be it further Ordained and Enacted, that the registration hereinbefore required of memorials of deeds, conveyances, or wills, whereby an estate of inheritance, or in freehold, is passed or intended to be passed, shall not operate to the prejudice of grantees or purchasers, for valuable consideration, or of devisees, whose title may be derived from a different grantor, vendor, devisor, or testatrix, but shall operate and have the effect hereinbefore mentioned between, and in respect of grantees, purchasers, and persons whose title is derived from the same grantor, vendor, devisor, or testatrix; and not otherwise.

IV.

Memorials of various instruments in writing to be registered within a stated period otherwise they will be inoperative against subsequent purchasers &c.

IV. And be it further Ordained and Enacted, that a memorial of all notarial obligations, contracts, instruments in writing, judgments, judicial acts and proceedings, recognizances, privileged and hypothecary rights and claims, now in force, or which shall be in force on the day on which this Ordinance shall come into force and effect, whereby any debt or debts, sum or sums of money, goods or chattels, have been contracted, stipulated, or secured, or have been recovered or made and are payable or deliverable, and whereby any lands, tenements or hereditaments, real or immoveable estates, have been and are hypothecated, charged or incumbered, for the payment, satisfaction, or delivery thereof, shall be registered in such manner as is hereinafter prescribed, within twelve calendar months, from and after the day on which this Ordinance shall come into force and effect: and such registration when so made within the period last aforesaid, shall have the effect of preserving such hypothecs, privileged and hypothecary rights and claims, according to their respective rank and priority, in the same manner, as if this Ordinance had not been made; and every such notarial obligation, contract, instrument in writing, judgment, recognizance, judicial act or proceeding, privileged or hypothecary right or claim, whereof a memorial shall not be registered within the period last mentioned, shall from and after the lapse of the said period, be inoperative, void and of no effect whatever, against any subsequent *bona fide* purchaser, grantee, mortgagee, hypothecary or privileged creditor, or incumbrancer, for or upon valuable consideration: Provided that nothing herein contained shall be construed to require the registration of the original grant, letters patent, conveyance or title by which lands have been granted and conveyed, and are now held *en fief, à titre de cens, en franc aleu*, or in free and common soccage, or of any rent, sum of money, due, duty, or service therein or thereby stipulated, or reserved by the seignior, original grantor, or Lord of the fee.

Register offices to be established, and Registrars to be appointed by the Governor.

V. And be it further Ordained and Enacted, that there shall be established, in each and every of the Judicial Districts of this Province, at such place as by the Governor of the Province shall be appointed for the holding of the District Court, in the said Districts respectively, a public office for the registering of all such memorials as aforesaid, of or concerning, or in any manner affecting lands, tenements, and hereditaments, real or immoveable estates, situated, lying, or being within such Districts respectively: and it shall be lawful for the Governor of this Province, from time to time, and as occasion may require to appoint a person of fit integrity and ability, to be Registrar for each and every of the said Districts respectively, by whom
the

the said office shall be kept, and the duties imposed by this Ordinance, in respect of the same, be performed ; and to remove any such Registrar, and in case of vacancy of the office by death, resignation, or removal, to appoint another fit person to fill such vacancy.

Registrars to
appoint Deput-
ies.

VI. And be it further Ordained and Enacted, that it shall be lawful for each of the Registrars, to be appointed as aforesaid, and he is hereby required, within twenty days after he shall have taken the oath of office, to appoint a sufficient Deputy for the discharge of the duties of his office ; and in the event of the death of any such Deputy Registrar, it shall be incumbent on his Principal, to appoint another Deputy in his place, within twenty days after the death of such Deputy shall occur. And if any such Registrar shall neglect to appoint a Deputy Registrar, as herein-before is prescribed, he shall forfeit five pounds, current money of this Province, for each and every day during which he shall have neglected to make such appointment ; which penalty shall and may be recovered in any Court of Record in this Province, and one half thereof shall go and be paid to Her Majesty, her heirs or successors, and the other half thereof to the informer ; and, upon the death of any such Registrar, his Deputy, to be appointed as aforesaid, shall execute the office of Registrar, until another person shall be appointed, and shall take upon himself the said office.

Death of any
Registrar to be
notified to the
Secretary of
the Province.

VII. And be it further ordained and enacted, that it shall be the duty of the Sheriff of the Judicial District, or if there be no such Sheriff, then of the Warden of the Municipal District in which any Registrar appointed as aforesaid shall die, to notify the death of such Registrar forthwith to the Secretary of the Province, for the information of the Governor of the Province, who shall within one month after any such death shall have occurred, appoint another fit person to fill the vacancy thereby occasioned.

Registrars and
their Deputies
to take the oath
of allegiance,
and an oath of
office.

VIII. And be it further Ordained and Enacted, that every such Registrar, and Deputy Registrar, before he enters upon the execution of his said office, shall take and subscribe, before one of the Justices of the Court of King's Bench for any District in this Province, or of the Court of Common Pleas for this Province, the Oath of Allegiance to Her Majesty, her heirs or successors, and also the Oath of Office contained in the Schedule No. 1, to this Ordinance subjoined, which Oaths shall be fairly written on parchment, and, after the same have been sworn, shall be transmitted to the Clerk of the Peace for the Judicial District for which such Registrar or Deputy Registrar shall have been appointed, or to the Clerk of the Peace for that
one

And also to enter into recognizances to Her Majesty.

one of the present Districts within which such Registrar is to keep his office, who is hereby required to file the same among the Records of his office, for which service he shall be entitled to have from such Registrar, or Deputy Registrar, five shillings, and no more. And every such Registrar shall also, before he takes upon himself the execution of his office, enter into a recognizance to Her Majesty, her heirs and successors, with two or more, and not more than four good and sufficient sureties, to be approved by the Justice before whom such recognizance shall be taken, jointly and severally, as follows, that is to say: every Registrar for any District other than the Districts in which the Cities of Quebec and Montreal shall lie, in the penal sum of two thousand pounds, and each of the Registrars for the said Districts in which the said Cities of Quebec and Montreal respectively shall lie, in the penal sum of five thousand pounds, upon the condition contained in the Schedule No. 2, to this Ordinance subjoined, which recognizance, fairly written on parchment, shall be so entered into before one of the Justices of the said Court of King's Bench, or of Common Pleas, and shall be filed and remain of record in the said Court of King's Bench or of Common Pleas, and shall stand and be as and for a security, as well to Her Majesty, her heirs and successors, as to all other persons who may be aggrieved by the breach of the said condition, and who shall recover judgment against any such Registrar, or his legal representatives, for any sum or sums of money for or by reason of any misconduct, negligence, or default of such Registrar, or his Deputy, in the discharge of the duties of the said office.

When the recognizances shall become void.

IX. Provided always, and be it further Ordained and Enacted, that in all cases where, within three years after the death or resignation of any such Registrar, no misconduct shall appear to have been committed by him, or his Deputy, in the execution of his said office, the recognizance entered into by such Registrar, as aforesaid, shall, from and after the lapse of that period, become and be void, to all intents and purposes whatever.

How memorials are to be made out and executed.

X. And be it further Ordained and Enacted, that each and every memorial, to be registered as aforesaid, shall be in writing, and attested by two witnesses. And the memorial of every deed, conveyance, contract in writing, or Will, shall be made under the hand of some or one of the grantors, or covenantors, or of some or one of the grantees, or covenantees, or of some or one of the devisees in such Will, his, her or their heirs, executors, curators, or administrators, tutors, or guardians, or trustees. And the memorial of every notarial obligation, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, to be registered as aforesaid

aforesaid, shall be under the hand of the creditor, or person entitled to the debt or sum of money stipulated, recovered, established, or intended to be secured by such notarial obligation, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, his, her or their heirs, executors, curators, tutors or guardians, or trustees. And every memorial of a contract of marriage, or of the appointment of a tutor or guardian to minors, or of a curator to persons interdicted, to be registered as aforesaid, shall and may be under the hand of any one of the several persons hereinafter authorized and required to cause and procure the registration of such memorial. And every memorial of a deed, conveyance, contract in writing, or Will, shall express the day of the month, and the year of the date thereof, and the names, places of abode, and additions of the parties to such deed, conveyance, or contract in writing, and the name of the devisor or testatrix of such Will, and of all the witnesses to such deed, conveyance, contract in writing, or Will, and the places of their abode, or the name or names of the notary or notaries before whom the same has been executed, or of one of them having the custody of the original instrument; and shall mention and describe the lands, tenements, and hereditaments granted, conveyed, devised, charged, or affected by such deed, conveyance, contract in writing, or Will, according to the description thereof contained in such deed, conveyance, contract in writing, or Will, or to the same effect, and also the nature, and general purpose and character of such deed, conveyance, contract in writing, or Will. And every memorial of a notarial obligation, to be registered as aforesaid, shall specify the date thereof, and the name or names of the notary or notaries before whom the same has been made and executed, or of one of them having the custody of the original obligation, and the names, places of abode, and additions of the obligor and obligee therein named, and for what sum or sums of money the same has been made and entered into; and also shall mention and describe the lands, tenements, and hereditaments, hypothecated, charged, or affected by such notarial obligation, according to the description thereof contained in such notarial obligation, or to the same effect. And every memorial of a judgment, judicial act or proceeding, recognizance, privileged right or claim, to be registered as aforesaid, shall express and contain, in case of such judgment, judicial act or proceeding, the names, places of abode, and additions of the parties, plaintiffs and defendants therein, the sum or sums of money thereby recovered or adjudged, and the time of the recovering of such judgment, or of the accomplishment and completion of such judicial act or proceeding; and in case of recognizances, the date of the recognizance, the names, places of abode and additions of the cognizers and cognizees therein, and for what sum or sums of money, and before whom the same was acknowledged, and a description of the lands, tenements, and hereditaments, charged or

or affected by such recognizance; and in case of privileged and hypothecary rights and claims, the names, places of abode, and additions of the creditors and debtors respectively, the amount of the debt, the nature and general purpose and character of the written security or document conferring, or affording evidence of the privilege or hypothec, and a description of the lands, tenements and hereditaments charged, incumbered, or affected with such privilege or hypothec, and the date of such written security. And every memorial of the appointment of a tutor or guardian to minors, and of a curator to persons interdicted, shall express and contain the name, place of abode, and addition of the tutor, or curator, and the names of each of the minors, or interdicted persons, of whom he has been appointed tutor or curator, and the name and description of the Judge by and under whose authority such appointment has been made, and shall also express whether such memorial is to be registered, in respect of all the real estates of such tutor or curator, or of a part only, and if of a part, of what part; and if such memorial be made by any other person than the tutor or curator himself, it shall also express the name, place of abode, and addition of the person by whom it is made.

How the registration of memorials are to be effected.

XI. And be it further Ordained and Enacted, that for the purpose of effecting the registration of memorials to be registered as aforesaid, every memorial made and executed in the manner herein-before required, shall be presented and delivered to the Registrar or his Deputy, at the office where the same is to be registered, and the same shall be acknowledged by the person or persons by whom the same shall have been executed, or one of them, or shall be proved by one of the witnesses to the execution thereof, on oath before the said Registrar, or his Deputy, who is hereby empowered to administer the said oath; and together with every such memorial, there shall be produced to the said Registrar, or his Deputy, the deed, conveyance, contract in writing, the Will, or the probate or office copy of such Will, the notarial obligation, instrument in writing, judgment, recognizance, appointment of a tutor or guardian, and of a curator, judicial act and proceeding, privileged or hypothecary, right or claim, of which such memorial is to be registered, or a notarial copy of any such document, if the original be executed in the notarial form, and be in the custody of a notary, or an office copy of any such document or writing as aforesaid, as may have validity, or proceed from the authority of a Court of Justice, or the Judge of any Court. And the said Registrar, or his Deputy, shall indorse a certificate on every such deed, conveyance, Will, probate, or office copy of a Will, notarial obligation, instrument in writing, judgment, recognizance, appointment

appointment of a tutor or curator, judicial act or proceeding, privileged or hypothecary right or claim, notarial or office copy, produced as aforesaid, and therein mention the certain day, hour, and time at which such memorial shall be entered and registered, expressing therein also, in what book and page, and under what number the same shall be entered; and the said Registrar, or his Deputy, shall sign the said certificate when so indorsed: and all certificates, so indorsed and given, shall be taken and allowed as evidence of such respective registries, in all Courts of Justice whatsoever.

Respecting
memorials
made and exe-
cuted out of
the District
wherein the
lands, &c.
therein men-
tioned, may lie:

XII. Provided always, and be it further Ordained and Enacted, that any memorial to be registered as aforesaid, that may be made and executed at any place within this Province, not being within the District wherein the lands, tenements, or hereditaments, real or immoveable estates therein mentioned may lie, shall be entered and registered by the Registrar of such District, or his Deputy, on the production and delivery to such Registrar, or his Deputy, of an affidavit sworn before one of the Judges of any Court of King's Bench, or of Queen's Bench, or of the Common Pleas, by which the execution of such memorial shall be proved, by one of the witnesses to the same. And provided also, that any memorial to be registered as aforesaid, that may be made and executed in Great Britain or Ireland, or in any of the Colonies or possessions belonging to the Crown of the United Kingdom of Great Britain and Ireland, shall be entered and registered, upon the production and delivery, to the Registrar or his Deputy, of an affidavit, sworn before the Mayor or Chief Magistrate of any City, Borough or Town corporate, in Great Britain or Ireland, or the Chief Justice or a Judge of the Supreme Court, of any such Colony or Possession, by which the execution of such memorial shall be proved, by one of the witnesses to the same. And provided also, that any memorial to be registered as aforesaid, that may be made or executed in any Foreign State, shall be entered and registered upon the production and delivery to the Registrar, or his Deputy, of an affidavit, sworn before any Minister Plenipotentiary, or Minister Extraordinary, or any *Chargé d'Affaires*, or any Consul, of Her Majesty, her heirs or successors, resident and accredited within such Foreign State, (who is hereby empowered to administer the oath in this behalf) by which the execution of such memorial shall be proved, by one of the witnesses to the same.

And also of
those made
and executed
out of the Pro-
vince.

Where there
are more writ-
ings than one
to which the
same lands &c.
are affected,
one memorial
and registry
thereof to be
sufficient.

XIII. Provided also, and be it further Ordained and Enacted, that where there are more writings than one, for making and perfecting any conveyance or security, which do name, mention, or in any wise affect or concern the same lands, tenements or hereditaments, real or immoveable estates, it shall be a sufficient memorial and registry thereof, if all the same lands, tenements

ments and hereditaments, real or immoveable estates, and the Parishes, Townships or extra parochial places, wherein the same lie, be only once named or mentioned in the memorial, registry, and certificates of any one of the deeds or writings made for the perfecting of such conveyance, or security, and that the dates of the rest of the said deeds or writings relating to the said conveyance or security, with the names and additions of the parties and witnesses, and the places of their abode, be only set down in the memorials, registries and certificates of the same, with a reference to the deed or writing whereof the memorial is so registered, that contains or expresses the parcels mentioned in all the said deeds, and directions how to find the registering of the same.

Concerning the
Registration of
Memorials of
Wills.

XIV. Provided also, and be it further Ordained and Enacted, that all memorials of wills that shall be registered in manner aforesaid, within the space of six months after the death of every respective deviser or testatrix, dying within the Province of Upper or Lower Canada, or within the territories now included in the said Provinces, or within the space of three years after the death of any deviser or testatrix, dying in any country or place beyond the limits of the said Provinces, shall be as valid and effectual against subsequent purchasers, grantees, judgments, judicial acts and proceedings, recognizances, privileged and hypothecary rights and claims, as if the same had been registered, immediately after the death of such respective deviser or testatrix, any thing herein contained to the contrary thereof in any wise notwithstanding. And provided also, that in case the devisee, or person or persons interested in the lands, tenements, or hereditaments, real or immoveable estates, devised by any such will as aforesaid, by reason of the concealment or suppression, or the contesting of such will, or other inevitable difficulty, without his, her, or their wilful neglect or default, shall be disabled from exhibiting a memorial for the registry thereof, within the respective times hereinbefore limited, and that a memorial shall be entered in the said office, of such contest or other impediment, within the space of six months after the decease of such deviser or testatrix, who shall die within either of the Provinces of Upper or Lower Canada, or within the space of three years next after the decease of such deviser or testatrix, who shall die in any country or place beyond the limits of the said Provinces; then, and in every such case, the registry of the memorial of such will, within the space of six months next after his, her, or their attainment of such will or a probate thereof, or removal of the impediment whereby he, she, or they, have been disabled or hindered from exhibiting such memorial, shall be a sufficient registry, within the meaning of this Ordinance; any thing herein contained to the contrary thereof in any wise notwithstanding. Provided nevertheless, that in case of any concealment or suppression of any will, or devise, no purchaser or purchasers for valuable

valuable consideration shall be defeated, or disturbed in his, her, or their purchase, nor shall any plaintiff in any judgment, nor any hypothecary or privileged creditor, or incumbrancer, be defeated of his, her, or their debts, by any title made or devised by such will, unless the will be actually registered within five years after the death of the devisor or testatrix.

Relating to
memorials of
sales and mu-
tations on
which "*droit
de quint*" &c
shall accrue
and become
due.

XV. Provided also, and be it further Ordained and Enacted, that in cases of sales, or alienations equivalent to sales, of lands, tenements and hereditaments, real or immoveable estates, on which the "*droit de quint*," or "*droits de lods et ventes*," shall accrue and become due, and also in cases of mutations, on which the "*droit de relief*" shall accrue and become due, all memorials that shall be registered in manner aforesaid, of such "*droit de quint*," or "*droits de lods et ventes*," or of such "*droit de relief*," accrued and become due as aforesaid, within forty days after any such sale or alienation equivalent to sale, shall be made known to the Seignior or Seigniors entitled to the same, shall be as valid and effectual against subsequent purchasers and incumbrancers, and all other persons, as if the same had been registered immediately after the sale, or alienation equivalent to sale, or the mutation on which the same shall have accrued and become due; any thing hereinbefore contained to the contrary thereof notwithstanding.

Cases in which
a creditor shall
be entitled to
a preference
before other
creditors.

XVI. Provided also, and be it further Ordained and Enacted, that no creditor shall be entitled, by reason of any registered memorial of a mortgage, hypothec, or privilege, to a preference or priority before other creditors, for more than two years arrears of interest on the debt or capital sum thereby secured, unless a memorial of his claim for arrears of interest to a specific amount, beyond the arrears of two years, shall have been separately registered as being due under such mortgage, hypothec, or privilege, and unless such creditor do, at the time of presenting such memorial to the Registrar, or his Deputy, make oath before such Registrar or his Deputy, (who is hereby empowered to administer such oath,) that the said specific amount of interest remains due and unpaid to him, or unless an affidavit to the same effect be sworn to before one of the Judges of the Courts of King's Bench or Common Pleas for this Province, (who is hereby empowered to take such affidavit) and delivered with such memorial to the said Registrar, or his Deputy.

Leases for less
than 9 years.

XVII. Provided also, and be it further Ordained and Enacted, that the provisions of this Ordinance, and any thing herein contained, shall not extend to leases for a less period than nine years.

XVIII.

Memorials of hypothecs by debtors previous to bankruptcy.

XVIII. And be it further Ordained and Enacted, that the registration of memorials of hypothecs, and hypothecary rights and claims, as directed by this Ordinance, which shall be made within ten days next before the bankruptcy of the debtor or debtors, shall give no priority over other creditors of the same debtor or debtors, and shall produce no effect whatever.

Registers to be authenticated.

XIX. And be it further Ordained and Enacted, that each and every of the Registers to be used for the registration of memorials therein, as aforesaid, shall, before the making of any entries, be authenticated by a *memorandum*, to be written on the first page thereof, and signed by the Prothonotary of the Court of King's Bench, or of the division of the Court of Common Pleas, sitting in the District or Territorial Division within which such Registers are to be used; by which *memorandum* shall be certified the purpose for which the said Register is intended, the number of leaves contained therein, and the day, month, and year, on which such *memorandum* shall be made, and shall also be authenticated by the numbering of each of the said leaves in words at full length, with the initial letters of the name of the said Prothonotary subscribed thereto; and every memorial that shall be entered in every such Register shall be numbered, and the day of the month, and the year, and hour of the day when every memorial is registered, shall be entered in the margin of the said Registers; and the said Registrar, or his Deputy, shall duly file the said memorials, and shall enter or register the said memorials, consecutively, in the same order in which they shall respectively come to his hand, and in such manner as to leave no blank or interval between the memorials so registered.

respecting the entry of memorial.

Registrars to keep certain books &c.

XX. And be it further Ordained and Enacted, that every Registrar to be appointed as aforesaid, shall keep in his Registry Office an Index, to be contained in a proper book provided for that purpose, wherein shall be entered in alphabetical order, the names of the persons mentioned in the memorials to be registered as aforesaid, by and to whom any real or immoveable estates, as mentioned in the said memorials, may have been alienated, hypothecated, mortgaged, charged, or incumbered, and by or against whom any judgments, as mentioned in such memorials, may have been recovered, and by and against whom, as also mentioned in such memorials, any legal or tacit hypothec, or any privileged or hypothecary right or claim, may be registered as aforesaid, with reference to the entries of the memorials, as registered, of and concerning the real and immoveable estates, alienated, hypothecated, mortgaged, charged, or incumbered by and to such persons respectively, and the numbers of such entries, and the pages of the Register containing such entries, and the name

name of the Parish, Township, Seignior, City, Town, Village, or extra-parochial place, where the said real or immoveable estates may be situated, so as to afford, by means of an Index to names as aforesaid, as far as may be practicable, an easy and ready reference to every memorial to be registered as aforesaid. And every such Registrar shall also keep in his Registry Office, an alphabetical list or calendar of all Parishes, Townships, Seignior, Cities, Towns, Villages, and extra-parochial places within the District for which such Registrar shall have been appointed, with references, under the respective heads of such local divisions, to all and every the entries of registered memorials relating to real or immoveable estates comprised within the said local divisions respectively, and the numbers of such entries, and with a designation of the names of the parties mentioned in such entries, and of the real and immoveable estates to which the same may relate, so as to afford, by means of an Index to estates, as far as may be practicable, a like easy and ready reference to every memorial to be registered as aforesaid. And every such Registrar shall also keep a Minute or Day-Book, in which shall be entered the year, month, day, and hour, when any memorial shall be brought for registration, the names of the parties in such memorial, and of the person by whom such memorial shall be so brought, the nature of the instrument, right, or claim, whereof registration is thereby required, and a general designation of the real estate intended to be affected by such memorial.

Married men, tutors and curators to cause memorials to be registered of all hypothecs, &c. to which their estates shall be liable to and in respect of their wives, and of minors and interdicted persons.

XXI. And be it further Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, it shall be incumbent on married men, and on the tutors or guardians of minors, and the curators of interdicted persons, to cause and procure to be registered without delay, a memorial of all and every the hypothecs and incumbrances, to which their lands, tenements, and hereditaments, real or immoveable estates, shall become and be subject or liable, to and in respect of their wives, and to and in respect of such minors and interdicted persons, respectively; and if any married man, tutor, or curator, shall fail to cause or procure such memorial as aforesaid to be registered, whereby any such hypothec or incumbrance shall become and be postponed to, and rank after, a subsequent registered hypothec or incumbrance, or shall consent to or permit any subsequent hypothec or privilege to be acquired on his lands, tenements, real or immoveable estates without expressly declaring or disclosing, in the instrument establishing such subsequent hypothec or privilege, that the same premises have already become and are subject to the hypothec of such married woman, minors

or

Or interdicted persons, and without the reservation of priority in favour of the hypothecs last mentioned, every such married man, tutor, or curator, so offending in the premises, shall be held to be guilty of a fraud, to be considered a misdemeanor in law, for which an indictment shall lie, and shall also be liable for all damages and costs sustained by the party injured, and for the satisfaction thereof, after judgment recovered, shall also be subject to execution against his person, and to be kept and detained in prison, until the amount of damages and costs, for which judgment shall be so recovered, paid or satisfied.

Duty of subro-
gate tutors and
relations and
friends, with
respect to the
registering of
memorials of
hypothecs &c.
of minors and
interdicted per-
sons on the
estates of tutors
and curators.

XXII. And be it further Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, it shall be incumbent on every subrogate (*subrogé*) tutor to a minor or minors, and on the relations and friends, who shall after the said day have concurred in the election of any tutor, or guardian to such minor, or minors to ascertain that a memorial has been registered at the instance of the said tutor of the hypothecs of such minor or minors, on the lands tenements and hereditaments, real or immoveable estates, of the said tutor, as required by this Ordinance, and in default of such registration, to cause and procure a memorial of the said hypothecs to be registered without delay, in the manner prescribed by this Ordinance. And if any subrogate-tutor, and any such relations and friends, shall fail to execute this duty, he and they shall be jointly and severally liable for all damages that may be sustained in the premises, by the said minor or minors. And from and after the said day it shall in like manner be incumbent on the relations and friends, who shall after the said day have concurred in the election of any curator to any interdicted person or persons, to ascertain that a memorial has been registered, at the instance of the said curator, of the hypothecs of such interdicted person or persons, on the lands, tenements and hereditaments, real or immoveable estates of the said curator, as required by this Ordinance, and, in default of such registration, to cause and procure a memorial of the said hypothecs to be registered without delay, in the manner prescribed by this Ordinance. And if such relations and friends shall fail to execute this duty, they shall be jointly and severally liable for all damages that may be sustained in the premises, by the said interdicted person or persons.

By whom the
memorials
mentioned in
the two pre-
ceding sec.

XXIII. And be it further Ordained and Enacted, that in case married men, tutors, curators, subrogate-tutors, and the relatives and friends, who shall have concurred in such election as aforesaid, shall fail to cause and procure memorials to be registered

rights, may be registered in certain cases.

registered in the manner prescribed in the two next preceding sections of this Ordinance, it shall be lawful, in every such case, for any relation or friend of any such married man, or his wife, or for any relation or friend of any such minor, or interdicted person, or for any such wife or minor, to cause and procure such memorial as aforesaid to be registered in the manner prescribed by this Ordinance.

Cases in which actions cannot be brought on the part of any husband, tutor or curator.

XXIV. And be it further Ordained and Enacted, that no action shall be brought, or be maintainable, in any of Her Majesty's Courts of Justice in this Province, in the name, or by, or on the part of any husband, for any cause of action derived from or under his contract of marriage, whereof the registration is required by this Ordinance, or in the name, or by, or on the part of any tutor or guardian to a minor or minors, or of any curator to a person or persons interdicted, in such capacities respectively, until after a memorial shall have been registered, in the manner prescribed by this Ordinance, of such contract of marriage, or of the appointment of such tutor or curator, respectively.

By whom memorials of hypothecs established by contracts of marriage of minors shall be registered.

XXV. And be it further Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, in cases where minors shall contract marriage after the said day, it shall be incumbent on the father, mother, tutor, or guardian, of any such minor, by and with whose authority and consent such marriage shall have been contracted, to cause and procure a memorial to be registered of the hypothecs established in and by the contract of marriage of such minor; and in default thereof, they, and each of them, jointly and severally, shall be liable for all damages that may be sustained by such minor, by reason of the omission to register such memorial as aforesaid.

Tutors or curators may be restricted to certain specific lands &c.

XXVI. And be it further Ordained and Enacted, that it shall be lawful for any Judge or Judges, by whom any appointment of a tutor, or curator, shall be made, by and with the advice and consent of the relations and friends assembled for the election of such tutor, or curator, to restrict the hypothec, resulting from such appointment, to certain specific lands and tenements, real or immovable estates, of such tutor or curator; in which case, all other the lands, tenements, and hereditaments, real or immovable estates, of such tutor, or curator, shall stand and be exonerated from any hypothec whatever, by reason of any such appointment: and it shall be incumbent on the tutor or curator, subrogate-tutor, relations and friends, in every such case to cause and procure a memorial to be registered, of the hypothecs on such specified lands and premises, and on none other.

XXVII.

And general legal hypothecs resulting from the same cases may also be restricted.

XXVII. And be it further Ordained and Enacted, that in cases where the hypothec, resulting from the appointment of a tutor to minors, or of a curator to interdicted persons, shall not have been restricted as aforesaid by the instrument or act of appointment, and where the general legal hypothec, thereby established, shall notoriously exceed a sufficient security for the gestion or administration of such tutor, or curator, it shall be lawful for the Judge or Judges, in whom the power of appointing tutors or curators in such cases resides, by and with the consent of the subrogate tutor, and with the advice of the relations and friends of any such interdicted person, to be assembled for that purpose, to restrict the hypothec, in such cases, to such specific lands and tenements, as may afford a complete security to such minor, or interdicted person; and thereupon, and after the registration of a memorial of such restricted hypothec, all other the lands, tenements, hereditaments, real or immoveable estates, of any such tutor, or curator, shall stand and be exonerated from any hypothec whatever, for or by reason of the appointment of such tutor or curator.

Respecting general and conventional hypothecs.

XXVIII. And be it further Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, no general hypothec, shall be stipulated in, or constituted by, or result from, any deed, contract, or obligation in writing whatsoever, to be thenceforward made and entered into; and no conventional hypothec, charge or incumbrance, on lands, tenements or hereditaments, real or immoveable estates, shall from and after the day last aforesaid, be constituted or acquired, in or by virtue of any deed, contract or obligation in writing, which shall be executed or made after that day, before a Notary or witnesses, or before Notaries, or before any Court of Justice, or Judge, or otherwise howsoever, unless the lands, tenements and hereditaments real or immoveable estates, intended or alledged to be hypothecated, charged or incumbered, by such deed, contract, or obligation in writing, or such acknowledgment thereof, or by which any such hypothec may be claimed, be therein specially described; nor unless the sum of money intended to be secured by such hypothec, charge or incumbrance, be in the same deed, contract, or obligation in writing, or the acknowledgment thereof, specified: and no such hypothec as last aforesaid shall be constituted or acquired for any other purpose than for securing the payment of a sum or sums of money specially mentioned as aforesaid.

No legal or tacit hypothec to be constituted except for

XXIX. And be it further Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, no legal or tacit hypothec shall, for any cause whatsoever, be constituted, or subsist, on lands, tenements,

the causes and
in the cases
prescribed in
this section.

ments, or hereditaments, real or immoveable estates, in this Province, except for the causes and in the cases following, that is to say: upon the lands, tenements and hereditaments, real and immoveable estates of married men, to and in respect of their wives, for securing the restitution and payment of all dotal sums of money, claims, and demands, which they may have on their husbands, for or by reason of any succession or inheritance, which may devolve upon and accrue to such married women, and of any donation which may be made to them during the continuance of their marriage, which hypothec shall be accounted from the respective periods at which such succession or inheritance shall so devolve and accrue, or such donation shall receive execution: and upon the lands, tenements, and hereditaments, real or immoveable estates, of tutors or guardians to minors, and curators to interdicted persons, to and in respect of such minors and interdicted persons, as a security for the due administration of such tutors and curators, and the payment of all sums of money which they may be found to owe, at the close of their administration; and upon the lands, tenements and hereditaments, real or immoveable estates of debtors, and persons who have contracted and entered into, or shall or may contract or enter into any debt, suretyship, engagement, or liability, to Her Majesty, her heirs or successors, for and in respect of which an hypothec is established and allowed by the existing laws of this Province; any law, usage or custom, to the contrary thereof in any wise notwithstanding.

Respecting by-
pothecs deriv-
ed from judg-
ments, and ju-
dicial acts or
proceedings.

XXX. And be it further Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, no hypothec shall be constituted by, or derived from any judgment, judicial act or proceeding, to be rendered, made, or had, after that period, on any lands, tenements, or hereditaments, real or immoveable estates of the defendant or defendants, debtor or debtors, against whom such judgment, judicial act or proceeding shall be rendered, made or had, than those whereof any such defendant or debtor shall be seized and possessed, at the time of the rendering of such judgment, or the accomplishment and completion of such judicial act or proceeding; which last mentioned lands, tenements and hereditaments, real and immoveable estates shall alone be thereby bound: nor shall any hypothec be established by, or derived from any judgment, judicial act or proceeding, which shall not award a specific sum of money, and such hypothec shall be established and subsist for and in respect of such sum of money only; save and except judgments containing an adjudication of interest and costs of suit, or of interest and costs only, which adjudication may be made, as now practised, without the express mention of the amount of interest or costs, in the judgment, and shall nevertheless carry with it an hypothec; any law, usage, or custom to the contrary thereof in any wise notwithstanding.

XXXI.

Who are ad-
judged to be
privileged
creditors.

XXXI. And be it further Ordained and Enacted, that the privileged creditors, of whose privileges and privileged rights and claims, memorials shall and may be registered, in pursuance of this Ordinance are, and shall be adjudged to be, the following, that is to say ;—Firstly, the vendor, upon and in respect of the real estate sold by him, for the recovery of the price thereof ;—Secondly, the persons by whom money to be applied to the purchase of real estate has been lent and advanced, provided that it be ascertained by the instrument or writing evidencing the loan, that it was intended to be so applied, and, by the acquittance of the vendor, that the payment of the price was made by and with the money so lent and advanced ;—Thirdly, co-heirs and co-partitioners, upon and in respect of the real estates of the succession, and the real estates held by them as tenants in common, for the execution of the warranty incident to the partition made among them, and for the difference and return in money (*soulte et retour*), to make up for the inequality of lots included in any such partition ;—Fourthly, Architects, builders, or other workmen employed in the building, re-building, or repair of buildings, canals, or other erections or works ; provided that by an *expert* named by any Judge of the Court of King's Bench for the District, or by the Judge of the District Court, in the Judicial District within which the buildings or premises aforesaid are situated, there shall have been previously made a *procès verbal*, establishing the state of the premises, in respect of the works about to be made ; and provided also, that within six months after the completion of such works, the same shall have been accepted and received by an *expert*, in like manner named ; and provided also, that the privilege, in such cases, shall in no instance extend beyond the value ascertained by such second *procès verbal* as aforesaid, and shall be reducible to the amount of increased value given to the premises by such works, at the period of the alienation of the real estate, on which the said works shall have been erected or made ;—Fifthly, the lenders of money applied to the payment of the workmen, in such cases as last aforesaid, provided that such intended application of the money lent be ascertained, by the instrument or writing evidencing the loan, and that it be ascertained by the acquittance of such workmen, that they were paid and satisfied, by and with the money so loaned.

Relating to the
privilege of
co-heirs.

XXXII. And be it further Ordained and Enacted, that in the cases herein before mentioned, of partition of estates by and between co-heirs, or co-partitioners, and also of sales by licitation at their instance, the privilege of such co-heirs or co-partitioners, for the difference or return in money as aforesaid, and of the price of the sale by licitation, shall remain and be preserved, from the period of the partition or of the sale by licitation, provided a memorial of the same be registered within
thirty

And of Archi-
tects, builders,
workmen &c.

Relating to the
rights &c. of
creditors and
legatees of
deceased
debtors or tes-
tators.

Proviso with
respect to pri-
vileged debts.

How donations
or deeds of
gift *inter vivos*,
are to be regis-
tered.

thirty days from those periods respectively, during which no hypothec shall be established or required on the estate charged with the pecuniary demands now mentioned, or either of them, to the prejudice of the creditor of such difference or return in money, or of such price. And in cases where the privilege of architects, builders, and workmen, and the lenders of money applied to the payment of such workmen, may obtain as aforesaid, the said privilege shall be accounted from the registration of the memorial of the first *procès verbal*, establishing the state of the premises, provided a memorial of the second *procès verbal*, establishing the acceptance of the work, shall have been registered with thirty days, from the date of such second *procès verbal*. And in case of creditors or legatees, who may demand, or be entitled to demand, the separation of the estates of their deceased debtor, or deceased testator, from those of his heir or legal representative, the hypothec, rights and interest of such creditors and legatees, in and to the estates of every such debtor or testator, shall remain and be preserved in their full force, provided a memorial of such their rights be registered, in respect of each and every of the said estates, within six months after the death of any such debtor, or testator; and during the said period of six months, no hypothec shall be established by the heir or legal representative of such debtor or testator, on any such estates, or be acquired thereupon, to the prejudice of such creditors or legatees. Provided always, and be it further Ordained and Enacted, that the privileged debts herein before mentioned, whereof a memorial shall not be registered within the time limited as aforesaid, shall, nevertheless, retain their hypothecary character, and there shall be attached to them an hypothec, in respect of third persons, from the period at which a memorial thereof shall be registered as required by this Ordinance.

XXXIII. And be it further Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, in all cases where donations, or deeds of gift, *inter vivos*, may be made of lands, tenements and hereditaments, real or immoveable estates, situated in this Province, whereof the registration is required by law, it shall be lawful to register a memorial of every such donation, or deed of gift, *inter vivos*, in the Registry Office for the District in which such lands, tenements, and hereditaments, real or immoveable estates, shall be situated, in the manner prescribed by this Ordinance, instead of a registration thereof, at full length, at the place or places and in the manner required by the laws now in force in this Province: and a memorial of such donation, or deed of gift, *inter vivos*, registered as aforesaid, shall have the same force and effect, in respect of such real or immoveable estates so situated, to all intents and purposes whatsoever, as such registration thereof, at full length, in pursuance of the said laws, would or might have; any law, usage, or custom, to the contrary thereof in any wise notwithstanding.

XXXIV.

Married women seized of lands &c. may alienate the same by deed executed jointly with their husbands.

XXXIV. And whereas, the alienation of the real estates of married women, held in free and common soccage, and those held under other and different tenures in this Province, is governed by different rules; and whereas it is expedient that such alienations of real estates, under whatever tenure the same may be held, should be governed by the same rules; Be it therefore Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, it shall be lawful for any married woman, being of the age of twenty-one years, or upwards, residing within this Province, and seized of lands, tenements or hereditaments, real or immoveable estates, held in free and common soccage, or *en fief*, or *à titre de cens*, or *en franc aleu*, or under any other tenure whatever, and situated in this Province, by deed or conveyance to be made and executed jointly with her husband, to sell, alien, and convey, any such lands, tenements, or hereditaments, real or immoveable estates, for and upon such considerations and conditions, and to and for such use and uses, as to her and her husband shall seem meet. Provided always, that before the execution of any such deed or conveyance, every such married woman shall be examined apart from her husband, before one of the Judges of the Court of Queen's Bench, or Common Pleas for this Province, or before any District Court in any District in this Province, touching her consent to the sale or alienation to be effected by any such deed or conveyance, and shall have declared before such Judge or Court, that without any coercion, or fear of coercion, on the part of her husband, she gives her free and voluntary consent to such sale or alienation; which consent shall be certified on the back or at the bottom of every such deed by the Judge or Court before whom the same shall have been declared, as aforesaid. And provided also, that when any such married woman shall reside without the limits of this Province, it shall be lawful for her, by deed or conveyance, made and executed jointly with her husband, to sell, alien, and convey, any such lands, tenements, or hereditaments, real or immoveable estates, whereof she may be seized as aforesaid, without any previous examination, or declaration of her consent, as hereinbefore required; and every such deed and conveyance shall have the same force and effect, as if executed by such married woman while sole. And provided also, that for or by reason of any such sale, or alienation, of the real or immoveable estates of any married woman as aforesaid, no legal or tacit hypothec shall be constituted, or subsist, on the real or immoveable estates of the husband of such married woman, for any compensation, or indemnity, to or for such married woman, on account of such sale or alienation; nor shall any privilege or hypothecary right or claim, for any such compensation, or indemnity, at any time afterwards, be made or exercised, by any such married woman, or her legal representatives, or any of them.

XXXV.

Married women may join with their husbands in the alienation of lands &c. which may be liable for their legal or customary dower.

XXXV. And be it further Ordained and Enacted, that from, and after the day on which this Ordinance shall come into force and effect, it shall be lawful for any married woman, being of the age of twenty-one years, or upwards, to join with her husband, in the sale or alienation of lands and tenements, real or immoveable estates, held in free and common soccage, or *en fief* or *à titre de cens* or *en franc aleu*, or under any other tenure whatever, which shall or may be subject or liable to or for her legal or customary dower, and in any deed or conveyance, which may be made for the purpose of such sale or alienation, to release her dower and right to dower, in, and upon, all or any part of the lands and tenements, real and immoveable estates, so sold or alienated; and such release shall effectually extinguish her dower, and right to dower, in and upon the lands and tenements, real or immoveable estates, in respect of which such release shall be granted, and be held and taken to be a valid bar to any right or claim to dower of such married woman, in, or upon any such premises; and no hypothec shall be constituted, attach, or subsist, on any other the lands and tenements, real or immoveable estates of the husband, by whom such alienation, jointly with his wife, shall be made, for any compensation, or indemnity, to or for such married woman, on account of such sale or alienation; nor shall any privileged or hypothecary right or claim to such compensation or indemnity, or any privileged or hypothecary recourse of any kind, accrue to, or become vested in, her heirs, or other legal representatives, or assigns, for or by reason of any such release of dower as aforesaid; any law usage or custom, to the contrary notwithstanding.

Married women not to become security in any other capacity than as *commune en biens* with their husbands.

XXXVI. And be it further Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, it shall not be lawful for any married woman to become security or responsible, or incur any liability whatever, in any other capacity, or otherwise, than as *commune en biens* with her husband, for the debts, contracts or obligations, which may have been contracted or entered into by her husband, before their marriage, or which may, by her said husband, be contracted, or entered into, at any time during the continuance of any such marriage: and all suretyships, contracts or obligations, made or entered into by any married woman, after the day last mentioned, in violation of this enactment, shall be absolutely null and void to all intents and purposes whatsoever.

Respecting the legal and customary dower of children.

XXXVII. And be it further Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, the legal or customary dower, and the right to legal and customary dower, of the child, children, or issue of any marriage, shall be had and exercised, solely and exclusively, upon and in
respect

respect of lands, tenements, real or immoveable estates, subject to the dower of his, her, or their mother, whereof his, her, or their father was seized and possessed, at the time of his death, and also upon and in respect of those on which the dower, and right of dower, of his, her, or their mother, may not have been by her released, or barred, during the continuance of her marriage, and not upon any other lands and tenements, real or immoveable estates whatever; any law, usage, or custom, to the contrary thereof in anywise notwithstanding.

What shall be deemed a valid conveyance of real estate held in free and common socage.

XXXVIII. And whereas, it is highly expedient in all cases of sales, to facilitate the valid and effectual alienation and conveyance of lands, tenements, and hereditaments, real or immoveable estates, held in free and common socage, by establishing a short, inexpensive, and legal form of conveyance of the same: Be it therefore Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, an indenture, deed, or writing of bargain and sale, made, sealed and delivered before two witnesses or made and executed before one Notary and two witnesses, or before two Notaries, whereby the intention of the bargainer to sell, and of the bargainee to purchase, an estate of inheritance or freehold, in any such lands and premises, shall be made manifest, shall be a good and valid conveyance for transferring, passing, and assuring to the bargainee, his heirs and assigns, not only the use of and in the same, but also the lawful seizin, estate of inheritance, or freehold, and possession, of the bargainer, of and in all and every such lands, tenements, and hereditaments, real or immoveable estates, with their appurtenances, without any livery of seizin, attornment, or other formality whatsoever; and every such indenture, deed, or writing of bargain and sale, may be in the form contained in the schedule No. 3. to this Ordinance subjoined, or in any other form, or words, to the same effect, and shall admit and be susceptible of all the covenants, dispositions, and clauses, which may or might legally be introduced into, or make part of a conveyance by feoffment, or lease and release; any law, usage, or custom, to the contrary notwithstanding.

How certain words to be used in a deed of bargain and sale of real estate held in free and common socage, are to be construed.

XXXIX. And be it further Ordained and Enacted, that in all indentures, deeds, or writings of bargain and sale, made as aforesaid, after the day on which this Ordinance shall come into force and effect, whereby an estate of inheritance in fee simple is limited to the bargainee and his heirs, the words "*grant, bargain, and sell,*" shall import and be construed and adjudged, in all Courts of Judicature, to be express covenants to the bargainee, his heirs and assigns, from the bargainer, for himself, his heirs, executors, curators and administrators, that the bargainer, notwithstanding any act done by him, was at the time
of

of the execution of such indenture, deed, or writing, seized of the hereditaments and premises thereby granted, bargained, and sold, as of an indefeasible estate in fee simple, free from all incumbrances, (rents and services due to the Lord of the Fee only, excepted) and for quiet enjoyment thereof, against the bargainor, his heirs and assigns, and all claiming under him, and also for further assurance thereof, to be made by the bargainor, his heirs and assigns, and all claiming under him ; unless the same shall be restrained and limited, by express particular words, contained in such indenture, deed, or writing ; and the bargainee, his heirs, executors, curators, administrators and assigns, respectively, shall and may, in any action to be brought, assign a breach or breaches thereupon, as they might do, in case such covenants were expressly inserted in such bargain and sale.

Deeds, wills &c. executed before witnesses, under which titles to lands &c. situated in the province may be claimed, to be registered at full length.

XL. And whereas it is necessary to make provision for the preservation of titles to real estates, which have been, and may be executed before witnesses ; be it therefore Ordained and Enacted, that from and after the day on which this Ordinance shall come into force and effect, any person or persons having or claiming title to any lands, tenements or hereditaments, real or immoveable estates situated in this Province, may register at full length in the Registry Offices aforesaid respectively, all and every or any of the deeds, conveyances, wills, or writings, executed before witnesses, by or under which such title shall be claimed ; and the said Registrars or their Deputies respectively, are hereby authorized to enter and register all such deeds, conveyances, wills, and writings as shall be so brought to be registered, at full length, by engrossing them in books bound in leather ; and the said Registrars, or their Deputies, respectively, shall in the margin of every such entry, mention the time of every such entry and registration, and shall indorse and sign a certificate on such deed, conveyance, will, or writing, in manner as by this Ordinance is directed, when a memorial is entered, and shall safely keep all and every the books wherein such entries and registrations shall be made, in the said public offices respectively, there to remain upon record ; and all copies of such entries and enrolments of such deeds, conveyances, wills, and writings, so registered at full length, which shall be certified and signed by the said Registrars, or their Deputies respectively, shall be allowed, in all Courts of Justice, to be good and sufficient evidence, of such deeds, conveyances, wills and writings, so registered, and which may be destroyed by fire, or other accident.

And certified copies of such registration to be allowed as evidence.

One of the witnesses to make oath to the due execution of

XLI. And be it further Ordained and Enacted, that at the time any deed, conveyance, will, or writing, shall be brought to the Registrar's office to be registered or inrolled at full length, as aforesaid, one of the witnesses to the execution of such

signing of any
such deed,
will &c.

such deed, conveyance or writing, or to the signing and publishing of such will, shall make oath before the said Registrar or his Deputy, that such deed, conveyance or writing, was duly executed by the grantor or grantors, or that such will was signed by the devisor or testatrix, which oath the said Registrar, or his Deputy, is empowered and required to administer.

Deeds, wills,
&c. executed
in the Pro-
vince, but out
of the district
in which the
lands &c. shall
lie, may also
be registered
at full length.

XLII. Provided always, and be it further Ordained and Enacted, that such deeds, conveyances, wills and writings, as shall be made and executed, or published, in any place in the said Province, not being within the District in which the lands, tenements and hereditaments therein mentioned, lie, may be entered and registered at full length, by the aforesaid Registrar or his Deputy, in case an affidavit, sworn before one of the Judges of the court of Queen's Bench or Common pleas, or before any District Court, be brought with such deed, conveyance, will, or writing, to the said Registrar or his Deputy, wherein one of the witnesses, to the execution of such deed, conveyance or writing, or to the signing and publishing of such will, shall swear that he or she saw the said deed, conveyance, or writing executed, or in case of wills, such will signed and published by the devisor or testatrix.

And also
deeds, wills
&c. executed
out of the pro-
vince.

XLIII. Provided also, and be it further Ordained and Enacted, that such deeds, conveyances, wills, and writings as shall be made and executed, or published, in any part of Great Britain or Ireland, or in any Colony or Possession belonging to the Crown of the United Kingdom of Great Britain and Ireland, may be entered and registered at full length, by the Registrar of any District in this Province, or his Deputy, in case a like affidavit, sworn before the Mayor or Chief Magistrate of any city, borough, or town corporate, in Great Britain or Ireland, or the Chief Justice or a Judge of the Supreme Court of any such Colony or Possession, be brought with such deed, conveyance, will, or writing to the said Registrar, or his Deputy. And provided also, and be it further Ordained and Enacted, that such deeds, conveyances, wills, and writings, as shall be made and executed, or published, in any Foreign State, may be entered and registered at full length, by any such Registrar, in case a like affidavit, sworn before any Minister Plenipotentiary, or Minister Extraordinary, or a Chargé d'Affaires, or any Consul of Her Majesty, Her Heirs or Successors, resident and accredited within such Foreign State, (who is hereby empowered to administer the oath in this behalf) be brought with such deed, conveyance, will, or writing, to the said Registrar or his Deputy.

XLIV.

Every such registry to be deemed to be the entry of a memorial of such deed, will, &c.

XLIV. And be it further Ordained and Enacted, that every such registry at full length, of such deeds, conveyances, wills, and writings in the said Registry Offices as aforesaid, shall be deemed and adjudged to be the entry of a memorial thereof pursuant to this Ordinance, and shall have the same force and effect, upon the estate or estates therein mentioned, in relation to all subsequent deeds, conveyances, wills, and writings, and to all other intents and purposes, as if a memorial of such deed, conveyance, will, or writing, so registered at full length, had been entered and registered in the said Registry Office as aforesaid, pursuant to this Ordinance; and the certificate signed and indorsed on such deeds, conveyances, wills and writings, registered at full length, shall be taken and allowed as evidence of such registry, in all Courts of Justice whatsoever.

Proceedings to be adopted by Registrars upon production of certificates that all monies due mortgages, &c. have been paid and satisfied.

XLV. And be it further Ordained and Enacted, that in case of mortgages, notarial obligations, judgments, judicial acts and proceedings, recognizances, privileged and hypothecary rights and claims, whereof memorials shall be entered in the said Registrar's Office as aforesaid, and in case of mortgages, where the mortgage deed shall be registered at full length, pursuant to this Ordinance, if at any time afterwards a certificate shall be brought to the said Registrar, or his Deputy, signed by the mortgagee in such mortgages, the creditors named in such notarial obligations, the plaintiffs in such judgments, the cognizees in such recognizances, the hypothecary or privileged creditors named in such judicial acts or proceedings, privileged rights or claims, their respective heirs, executors, curators, administrators, or assigns, and attested by two witnesses, whereby it shall appear that all monies due on such mortgage, notarial obligation, judgment, judicial act, or proceeding, recognizance, privileged or hypothecary right or claim, respectively, have been paid or satisfied, in discharge thereof, which witnesses shall, upon their oath before any one of the Judges of the Court of Queen's Bench, or Common Pleas, or before the said Registrar or his Deputy, who are hereby respectively empowered to administer such oath, prove such monies to be satisfied or paid accordingly, and that they saw such certificate signed by the said mortgagees, hypothecary or privileged creditors, plaintiffs, or cognizees, their respective heirs, executors, curators, administrators, or assigns; then and in every such case, the said Registrar or his deputy, shall make an entry in the margin of the Register, against the registry of the memorial of such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged right or claim, or against such deed registered at full length respectively, that such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged right

right or claim, has been satisfied and discharged according to such certificate, to which the same entry shall refer, and shall afterwards fyle such certificate, to remain upon record in the said Registry Office.

Forms of memorials and certificates of discharge.

XLVI. And be it further Ordained and Enacted, that memorials and certificates of discharge, to be registered in pursuance of this Ordinance, may be in the forms contained in the Schedule No. 4, to this Ordinance subjoined, or in any other forms, by which the requirements of this Ordinance may be fulfilled.

Duty of Registrars who shall cease to hold office, and of the heirs &c. of those who shall die.

XLVII. And be it further Ordained and Enacted, that whenever the Registrar of any District shall cease to be such Registrar, in consequence of his resignation or removal from office, and when any such Registrar shall die, it shall be the duty of every such Registrar, who shall cease to hold the said office, and of the heirs, executors, curators, or other legal representatives of every such Registrar who shall die, to deliver to the successor of every such Registrar, who shall so resign, be removed, or die, on his demand, all and every the registers, books, indexes, memorials, records, documents, and papers appertaining to the office of such Registrar; and in case the Registrar so resigning, or removed from office, or the heirs, executors, curators, or other legal representatives of any such deceased Registrar, shall refuse or neglect to deliver to the successor of every such Registrar, all such registers, books, indexes, memorials, records, documents, and papers as aforesaid, they, each and every of them, so refusing or neglecting, shall be held to be guilty of a misdemeanor, in having disobeyed this enactment, and shall besides be liable to make satisfaction to the parties aggrieved or injured, for all such damages and costs as he, she, or they shall sustain by reason of such refusal or neglect.

Fees to be taken by Registrars.

XLVIII. And be it further Ordained and Enacted, that every such Registrar, to be appointed as aforesaid, shall be allowed for the fying, entry and registration of every memorial to be registered in pursuance of this Ordinance, the sum of two shillings and six pence. and no more, in case the number of words therein do not exceed four hundred words, but if such memorial shall exceed four hundred words, then after the rate and proportion of six pence for every hundred words, contained in such memorial, over and above the first four hundred words, and the like fees for the like number of words contained in every deed, conveyance, will, and writing, registered at full length as aforesaid, and in every certificate or copy given at the said office, and no more; and for every search in the said office, if the names of the parties to, or who have executed the deed

deed or instrument to be searched for be given, one shilling and no more, and when the names of the parties are not given, two shillings, and no more.

Hours of attendance at the office of every Registrar.

XLIX. And be it further Ordained and Enacted, that every Registrar to be appointed as aforesaid, or his sufficient deputy, shall give due attendance at his office, every day in the week, excepting Sundays and holidays, between the hours of nine in the forenoon and three in the afternoon, for the despatch of all business belonging to the said office; and every such Registrar, or his deputy, as often as required, shall make searches concerning all memorials that are registered, and all deeds, conveyances, wills, and writings registered at full length as aforesaid, and give certificates concerning the same, under his hand, if required by any person.

Penalty on Registrars for neglect of duty &c.

L. And be it further Ordained and Enacted, that if any such Registrar, to be appointed as aforesaid, or his deputy, shall neglect to perform his or their duty, in the execution of the said office, according to the rules and directions in this Ordinance contained, or commit or suffer to be committed any undue or fraudulent practice in execution of the said office, and be thereof lawfully convicted, then, and in every case, such Registrar shall forfeit his said office, and pay treble damages, with full costs of suit, to every person or persons that shall be thereby injured, to be recovered by action of debt or information, in any of Her Majesty's Courts of Record in this Province.

Penalties on persons forging &c. any memorial, certificate, or endorsement.

LI. And be it further Ordained and Enacted, that if any person or persons shall, at any time forge or counterfeit any such memorial, certificate or indorsement, as is herein before mentioned or directed, and be thereof lawfully convicted, every such person so offending shall incur, and be liable to such pains and penalties as in and by an Act made in the fifth year of the Reign of Queen Elizabeth, intituled, "An Act against Forgery of False Deeds and Writings," are imposed upon persons, for forging and publishing false deeds, charters or writings sealed, court-rolls, or wills, whereby the freehold or inheritance of any person or persons, of, in, or to any lands, tenements and hereditaments, shall or may be molested or changed; and that if any person shall, at any time, forswear himself before any Registrar, appointed as aforesaid, or his deputy, or before any Judge, District Court, or person hereby authorized to administer an oath in any of the cases herein before mentioned, and be thereof lawfully convicted, every such person or persons so offending shall incur, and be liable to the same penalties, as if the

And on persons forswearing themselves.

he or she were guilty of wilful and corrupt perjury, in any of Her Majesty's Courts of Record in this Province.

Relative to memorials to be registered on behalf of the Crown.

LII. And be it further Ordained and Enacted, that the provisions of this Ordinance shall extend to, include, and be binding on Her Majesty, her heirs and successors, in all the particulars herein contained. And memorials to be registered, for and on behalf of Her Majesty, her heirs or successors, in pursuance of this Ordinance, may be made and executed by the Receiver General of the Province, or the Secretary and Registrar of the Province, or the Inspector General of Her Majesty's Domain, or by any other person holding an office under the Government of Her Majesty, her heirs or successors, in this Province, and having in his hands, custody, or power, the title, deed, will, notarial obligation, judgment, instrument, or writing, or a notarial or office copy thereof, or probate of such will, whereof a memorial is to be, and may be registered. And every memorial to be registered for and on behalf of Her Majesty, her heirs or successors, shall express and contain the name, office, and place of abode of the person by whom such memorial shall be made, the name, place of abode, and addition, of the debtor, or person against whom such memorial is to be, and may be registered, the date and nature of the title, conveyance, instrument, written security, document or writing, to which such memorial shall relate, and therein mentioned, and the nature and amount (if the amount be ascertained) of the debt, right, claim, demand, or liability, for and in respect of which such memorial is to be, and may be registered.

The Acts 10 & 11 G. 4 c. 8. 1 W. 4 c. 3. and 4 W. 4. c. 5. establishing county registry offices repealed.

LIII. And be it further Ordained and Enacted, that a certain Act of the Legislature of this Province, made and passed in the Session held in the tenth and eleventh years of the reign of His late Majesty King George the Fourth, intituled, "An Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Stanstead, and Missiskoui," and also a certain other Act of the same Legislature, made and passed in the first year of the Reign of His late Majesty King William the Fourth, intituled, "An Act to amend an Act passed in the eleventh year of the Reign of His late Majesty, intituled, "An Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Stanstead, Shefford, and Missiskoui, and to extend the provisions of the said Act," and also a certain other Act of the same Legislature, made and passed in the fourth year of the Reign of His late Majesty King William the Fourth, intituled, "An Act to extend the provisions of the Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Shefford and Missiskoui, to lands held in free and common soccage,

" in

The repeal of said acts not to invalidate any thing done previously to such repeal.

Where the registers &c. appertaining to said offices are to be deposited

Every registry of deeds &c. under said acts to have the same effect as if memorials thereof had been entered in a district registry office.

One uniform set of books to be furnished each registry office at the cost of the Province.

“ in the Counties of the Lake of the Two Mountains and Lacadie,” shall, from and after the day on which this Ordinance shall come into force and effect, be, and the same are hereby repealed. Provided always, and be it further Ordained and Enacted, that the repeal of the said three last mentioned Acts of the Legislature of this Province as aforesaid, shall not invalidate any Act, matter, or thing done previously to such repeal, nor alter, impair, or affect any title or right acquired under the provisions of the said Acts, or any of them ; but every such act, matter, and thing, title and right, shall have the same force and effect as if this Ordinance had not been made. And provided also, and be it further Ordained and Enacted, that all and every the Registers, books, indexes, records, documents and papers, appertaining to the County Registry Offices, established under and in pursuance of the said three Acts of the Legislature of this Province shall be transmitted by the County Registrars of the said County Offices respectively, or the persons who now hold the said offices, into the Registry Office for the District within which such County Registry Offices as aforesaid shall respectively be situated, there to remain and make part of the records of such District Registry office, in the custody of the Registrar thereof, for the time being. And provided also, and be it further Ordained and Enacted, that every registry at full length of deeds, conveyances, contracts of marriage, wills, and writings, or of any clause or part thereof, in the County Registry Offices aforesaid, in pursuance of the said last mentioned three Acts of the Legislature of this Province, or any of them, shall be deemed and adjudged to be the entry of a memorial thereof, pursuant to this Ordinance, and shall have the same effect upon the estates therein mentioned, in relation to all subsequent deeds, conveyances, contracts of marriage, wills, and writings, and to all other intents and purposes, as if a memorial of any such deed, conveyance, contract of marriage, will, or writing, or of any such clause or part thereof, had been entered in a District Registry Office, pursuant to this Ordinance, and the certificate signed and indorsed on such deeds, conveyances, wills, and writings, registered at full length, shall be taken and allowed as evidence of such registries, in all Courts of Justice whatsoever.

LIV. And with a view to the use of a uniform set of books, in the several Registry Offices in this Province, be it further Ordained and Enacted, that it shall be incumbent on the Secretary and Registrar of this Province, under such directions in this behalf as he may receive from the Governor of this Province, to provide for and transmit to, each of the Registry Offices, to be established in pursuance of this Ordinance, on or before the day on which this Ordinance shall come into force and effect, a uniform set of books, to be used in each of the said offices respectively, as a register, indexes, and minute or day-book, the cost of which

which books shall be defrayed out of any unappropriated monies in the hands of the Receiver General of this Province; and like books, when required, shall from time to time, be provided by the said Registrars respectively, for their respective offices, at their own expence.

The registry offices to be visited by a Crown Law officer, to ascertain whether the provisions of this Ordinance be well executed.

LV. And be it further Ordained and Enacted, that it shall be lawful for the Governor of this Province, by warrant under his hand and seal, from time to time, when he may deem it necessary or expedient, to authorize and require the Attorney or Solicitor General, or other law officer of the Crown, or some other fit and proper person or persons, to visit the several or any of the Registry Offices established in pursuance of this Ordinance, and to inquire into and examine the state and condition of such offices respectively, and the registers, books, indexes, memorials, documents, and papers therein, appertaining to such offices respectively, and to ascertain whether the provisions of this Ordinance be, or be not, therein well and sufficiently executed; of which visit and examination, a report in writing shall, by the person or person or persons authorized as aforesaid, be made to the Governor of the Province, by whom the same shall be laid before the Provincial Legislature, at the next following session thereof.

Meaning of words.

LVI. And be it further Ordained and Enacted, that the words, "Governor of this Province," wherever they occur in the foregoing enactments, shall be understood as meaning and comprehending the Governor, or the person authorized to execute the commission of Governor, within this Province, for the time being.

The day from which this Ordinance shall have force to fixed by proclamation.

LVII. And be it further Ordained and Enacted, that it shall be lawful for the Governor of this Province, with the advice of Her Majesty's Executive Council, by his Proclamation in this behalf, to fix and declare the day from and after which this Ordinance, shall have force and effect; provided, that such day shall not be later than the thirty-first day of December, which will be in the year of Our Lord one thousand eight hundred and forty-one.

When passed, does not become law until the 4th of Dec. 43, shall not be in force when the said proclamation shall issue.

LVIII. And be it further Ordained and Enacted, that if at the time when the Proclamation mentioned in the next preceding section shall issue, a certain Ordinance passed in the fourth year of Her Majesty's Reign, and intituled, "An Ordinance to provide for the more easy and expeditious administration of Justice, in civil causes and matters involving small pecuniary value and interest, throughout this province," shall not be in force, then it shall be lawful for the

the Governor of this Province, in and by the Proclamation aforesaid, to divide this Province into districts for the purposes of this Ordinance, and to declare and appoint that any one or more of the municipal districts into which this Province may be divided, under the authority of a certain Ordinance passed in the present session of the Legislature of this Province, and intitled, "An Ordinance to provide for the better internal Government of this Province by the establishment of local or municipal authorities therein," shall, from and after the day to be appointed in such Proclamation, form, or shall, be united into a district for all the purposes of this Ordinance, and that a Registry Office, shall, from and after the said day, be kept in and for each District so constituted in and for the purposes of this Ordinance, at such place as shall be appointed in such Proclamation; and it shall be lawful for the Governor of this Province, by any Proclamation to be issued in like manner at any time before the twenty-ninth day of December, in the year of our Lord one thousand eight hundred and forty-two, to change the place at which the Registry Office shall be held in any District to be constituted in the manner mentioned in this section; any thing in any part of this Ordinance contrary to the provisions of this section notwithstanding.

This Ordinance to be permanent, and a public Act.

LIX. And be it further Ordained and Enacted, that this Ordinance, and the provisions herein contained, shall not cease or expire on the first day of November, which shall be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent and public law, and in force in this Province, until the same shall be repealed or altered by competent Legislative authority. And all Judges, Justices, and other persons therein concerned, shall take notice thereof, though the same be not specially pleaded.

SCHEDULES.

SCHEDULES.

SCHEDULE No. 1,

Referred to in the foregoing Ordinance.

OATHS TO BE TAKEN BY REGISTRARS AND DEPUTY REGISTRARS OF DISTRICTS:

1.—*Oath of Allegiance.*

I, A. B., do sincerely promise and swear, that I will be faithful, and bear true allegiance to Her Majesty Queen Victoria.—So help me God.

2.—*Oath of Office to be taken by Registrars and Deputy Registrars.*

I, A. B., Registrar (or Deputy Registrar, as the case may be) for the District of _____ do solemnly swear, that I will truly, honestly, and faithfully perform and execute the office of Registrar (or Deputy Registrar, as the case may be,) for the District of _____ and all and every the duties enjoined and required to be done and performed by me as such Registrar, (or Deputy Registrar,) in and by an Ordinance of the Legislature of this Province, made and passed by the Governor of this Province, by and with the advice and consent of the Special Council for the affairs thereof, intituled, "An Ordinance to prescribe and regulate the registering of titles to lands, tenements, and hereditaments, real or immoveable estates, and of charges and incumbrances on the same; and for the alteration and improvement of the law, in certain particulars, in relation to the alienation and hypothecation of real estates, and the rights and interest acquired therein," so long as I shall continue in the said office; and that I have not given
or

or promised, directly or indirectly, nor authorized any person to give or promise any money, gratuity or reward whatsoever, for procuring or obtaining the said office for me.—So help me God.

SCHEDULE No. II.

Referred to in the foregoing Ordinance.

Condition of Recognizance to be entered into, by Registrars for Districts.

Whereas the said A. B., hath been appointed Registrar for the District of _____ in pursuance of an Ordinance or Law of this Province, made and passed by the Governor of this Province, by and with the advice and consent of the Special Council for the affairs thereof, in the fourth year of Her Majesty's Reign, intituled, "An Ordinance to prescribe and regulate the registering of titles to lands, tenements and hereditaments, real and immoveable estates, and of charges and incumbrances on the same; and for the alteration and improvement of the law in certain particulars, in relation to the alienation and hypothecation of real estates, and the rights and interest acquired therein;" Now, the condition of this Recognizance is such, that if the said A. B., do and shall well and truly, honestly and faithfully, execute the said office, and perform and fulfil all and every the said duties enjoined and required to be done and performed by him, as such Registrar, in and by the said Ordinance or Law, in all things therein mentioned; then this Recognizance to be void and of no effect; otherwise, to be and remain in full force and virtue.

SCHEDULE No. III.

Referred to in the foregoing Ordinance.

Form of a Deed of Bargain and Sale, executed before Witnesses.

This Indenture, made the
&c., between A. B., of

_____ day of
&c., of the one part, and C. D., of
&c., of the other part, witnesseth—That, for and in
consideration.

consideration of the sum of _____ current money of the Province of Lower Canada, to the said A. B., in hand paid by the said C. D., at or before the execution of these presents, (the receipt whereof is hereby acknowledged by the said A. B.,) he the said A. B. hath granted, bargained, sold and confirmed and by these presents doth grant, bargain, sell and confirm, unto the said C. D., his heirs and assigns for ever, all that certain lot of land, &c. [Insert here a description of the property sold]; To have and to hold the said lot of land and premises, herein before granted, bargained and sold, or intended so to be, with their and every of their appurtenances, unto, and to the use of the said C. D., his heirs and assigns for ever. In witness, &c.

A. B.
C. D.

[L. S.]
[L. S.]

Signed, Sealed and Delivered,
in the presence of
E. F.
G. H.

SCHEDULE No. IV.

Referred to in the foregoing Ordinance.

FORMS OF MEMORIALS AND CERTIFICATES OF DISCHARGE.

1.—*Memorial of a Deed of Bargain and Sale, executed before Witnesses.*

A Memorial to be registered of a Deed of Bargain and Sale, bearing date the _____ day of _____ in the year of Our Lord _____ made between A. B. of _____ in the District of _____ Esquire, of the one part; and C. D. of &c. of the other part, [a full description of the parties to be inserted, as in the Deed,] by which said Deed of Bargain and Sale, the said A. B., for the considerations therein expressed, did grant, bargain, sell, and confirm unto the said C. D., his heirs and assigns, all that &c., [insert a description of the property sold,] to hold to the said C. D. his heirs and assigns.

assigns for ever ; which said Deed of Bargain and Sale, now to be registered is witnessed, &c., [specify here the names of the witnesses to the execution of the Deed,] and the same Deed is required to be so registered by the said C. D. : as witness his hand, this
day of, &c.

C. D.

Signed in the presence of }
J. K. }
L. M. }

2.—*Memorial of a Deed of Bargain and Sale, by way of Mortgage, before Witnesses.*

A Memorial to be registered of a Deed of Bargain and Sale, bearing date the
day of
our Lord
in the year of
made between A. B., of &c , of the
one part, and C. D., of &c., of the other part, by which said Deed of Bargain and
Sale, the said A. B. did grant, bargain, sell, and confirm unto the said C. D. his
heirs and assigns, all that &c. [Here insert a description of the mortgaged premises,]
to hold to the said C. D. his heirs and assigns for ever ; subject, nevertheless, to
redemption, upon payment to the said C. D., his heirs, executors, curators, admi.
nistrators, or assigns, of the sum of
pounds, and lawful
interest, as in the said Deed of Bargain and Sale, now to be registered, is expressed ;
which said Deed of Bargain and Sale is witnessed,—as to the execution thereof by
the said A. B., by J. D. of, &c. and E. G. of, &c.—and as to the execution there-
of by the said C. D. by, &c. ; and the same Deed is hereby required to be register-
ed by the said C. D. : as witness his hand, this
day of, &c.

Signed in the presence of }
E. F. }
G. H. }

C. D.

3.—*Memorial of an Onerous Deed of Gift inter vivos.*

A Memorial to be registered of a Notarial Copy of a Deed of Gift *inter vivos*, bearing date at _____ the day of _____ made between A. B. of, &c. and C. D. his wife, by him in this behalf duly authorized, of the one part, and E. F. of, &c. of the other part, [a full description of the parties to be inserted, as in the Deed,] before G. H., Public Notary, and witnesses, [or before J. K. and another, Public Notaries, as the case may be,] by which said Deed of Gift, the said A. B. and C. D. his wife, did give, grant and confirm unto the said E. F. his heirs and assigns, all that, &c. [insert a description of the property conveyed by the Deed of Gift,] to hold to the said E. F. his heirs and assigns for ever; subject, nevertheless to a certain life-rent, consisting of, &c. [Here insert the particulars of which the life-rent is composed,] which said life-rent is payable by the said E. F. to the said A. B. and C. D. his wife, each and every year during the term of their natural lives, as in the said Deed of Gift *inter vivos*, now to be registered, is expressed. And the said Deed of Gift is hereby required to be registered by the said E. F.: As witness his hand, this _____ day of _____ &c.

E. F.

Signed in the presence of }
 L. M. }
 N. P. }

4.—*Memorial of a Will, or of a Probate, or an Office Copy, or a Notarial Copy thereof.*

A Memorial to be registered of the Probate [or the original Will, or an Office or Notarial Copy, as the case may be,] of the last Will and Testament of G. H., late of _____ in the County of _____ in the District of _____ bearing date, &c., by which Will the said Testator did give and devise unto, &c. [as in the Will,] to hold, &c.; which said Will was executed by the said Testator, in the presence of A. B. of, &c., C. D. of, &c., and E. F. of, &c.; and the Probate of the said Will, [or the Original, or an Office or Notarial Copy, as the case may be,] is hereby required to be registered by _____ O. P.

O. P. one of the devisees therein named : as witness his hand, this
day of

Signed in the presence of }
R. S. }
T. V. }

O. P.

5.—*Memorial of a Notarial Obligation.*

A Memorial to be registered of a Notarial Copy of a Notarial Obligation, [or of the Original, if it be the Original.] bearing date the _____ day of _____ in the year of our Lord _____ made and entered into by A. B. of, &c. before E. F. Public Notary, and witnesses, [or before G. H. and another, Public Notaries, if the case be so,] whereby the said A. B. owned himself to be indebted to C. D., of &c. in the sum of _____ pounds, to be paid, &c. ; and for securing the payment of the said sum of money and interest, hypothecated all that, &c. [insert the description of the hypothecated premises, as contained in the Notarial Obligation,] which said Notarial Copy of the said Notarial Obligation is hereby required to be registered by the said C. D. : as witness his hand, this _____ day of, &c.

Signed in the presence of }
J. K. }
L. M. }

C. D.

6.—*Memorial of the Appointment of a Tutor or Guardian to Minors, for the preservation of the Legal or Tacit Hypothec, resulting from such Appointment.*

A Memorial to be registered of the Appointment of A. B. of, &c. [insert the place of abode and addition of the Tutor,] to be Tutor or Guardian to C. D. E. F., &c., minors under the age of twenty-one years, issue of the marriage of the late G. H. [the name of the father,] deceased, with the late J. K. [the name of the mother,] also deceased, which Appointment was made by and under the authority of L. M. [insert

[insert the name and description of the Judge by whom the appointment has been made] at &c. [the place where the appointment was made,] on the day of _____ in the year of our Lord _____ and the said appointment is hereby required to be registered, for the preservation of the legal or tacit hypothec resulting therefrom, on all the real or immoveable estates of the said A. B., situated in the District of _____ [the name of the District within which the registration is to be made,] by N. O. of, &c. [insert the name and description of the person requiring the registration,] : as witness his hand, this _____ day of, &c.

N. O.

Signed in the presence of }
 O. P. }
 R. S. }

7—*Memorial of a Judgment.*

A Memorial to be registered of a Judgment in Her Majesty's Court of Common Pleas, in the _____ Division thereof, being the Division held in the Territorial Division of _____ of the Term of _____ in the year of our Lord _____ between A. B. of, &c. Plaintiff, and C. D. of, &c. Defendant, in a plea of Debt for _____ pounds, with interest from, &c. and costs taxed at _____ pounds; which said judgment was rendered on the _____ day of the said month of _____ and is hereby required to be registered by the said A. B. as witness his hand, this _____ day of _____ &c.

A. B.

Signed in the presence of }
 J. F. }
 T. P. }

8—*Certificate of Discharge from a Judgment whereof a Memorial has been registered.*

To the Registrar of the District of _____

I, A. B. of, &c. do hereby certify C. D. of, &c. hath paid and satisfied to me all such sum and sums of money as was, or were due and owing upon a judgment recovered

vered in Her Majesty's Court of Common Pleas, in the Division
 thereof, being the Division held in the Territorial Division of
 of the Term of in the year of our Lord
 by me, the said A. B. against the said C. D. for pounds,
 debt, and pounds, costs, a Memorial whereof was registered
 on the day of in the year of our Lord
 in Register B. No. And I do hereby require an entry of such pay-
 ment and satisfaction to be made, in the Register wherein the same is registered
 pursuant to the Ordinance or Law in such case provided ; as witness my hand, this
 day of in the year of our Lord, &c.

A- B.

Signed, and satisfaction acknowledged, }
 in the presence of }
 J. K. of, &c. }
 L. M. of, &c. }

9.—A Certificate to discharge a Mortgage.

To the Registrar of the District of
 I, A. B. of, &c. [the Mortgagee in the deed or his heirs, executors, curators,
 or administrators,] do hereby certify that C. D. of, &c. hath paid and satisfied
 all such sum and sums of money, as was or were due and owing upon an Indenture
 of Mortgage, bearing date the day of
 in the year of our Lord made between the said said C. D.
 of the one part, and me the said A. B. of the other part ; a Memorial whereof was
 registered on the day of in the year of
 our Lord in Register B. No. and I do
 hereby require an entry of such payment and satisfaction to be made in the Re-
 gister wherein the same is registered, pursuant to the Ordinance or Law in such
 case provided ; as witness my hand, this day of
 in the year of our Lord

Signed, and satisfaction acknowledged, }
 in the presence of }
 O. P. of, &c. }
 R. S. of, &c. }

A. B.

C. 30. Anno quarto *Victoriae Reginae*. A. D. 1841.

10.—*A Certificate to Discharge a Notarial Obligation, and extinguish the hypothec thereby constituted.*

To the Registrar for the District of

I, A. B. of, &c. [the hypothecary obligee or creditor, his heirs, executors, curators, or administrators] do hereby certify that C. D. of &c. hath paid and satisfied all such sum and sums of money as was or were due and owing upon a Notarial Obligation, bearing date the _____ day of _____ in the year of our Lord _____ made and entered into by the said C. D, to me and in my favor, as the obligee therein named, before E. F. Public Notary and witnesses, [or before E. F. and another, Public Notaries, as the case may be]whereof a memorial was registered, on the _____ day of _____ in the year of our Lord _____ in Register B. No. _____

And I do hereby require an entry of such payment and satisfaction, to be made in the register wherein the same is registered, pursuant to the Ordinance or Law in such case provided : as witness my hand, this _____ day of _____ in the year of our Lord _____

Signed, and satisfaction acknowledged, }
 in the presence of }
 J. K. of, &c. }
 L. M. of, &c- }

G. B.

SYDENHAM.

Ordained and Enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House, in the City of Montreal, the Ninth day of February, in the Fourth year of the Reign of Our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of Our Lord one thousand eight hundred and forty-one.

By His Excellency's Command,

W. B. LINDSAY,

Clerk Special Council.

C A P.