

or place where such person is imprisoned, to inquire, with the aid of two Physicians or Surgeons, as to the insanity of such person ; and if it shall be duly certified by such Justices and such Physicians or Surgeons that such person is insane, it shall be lawful for the said Lieutenant Governor or Administrator of the Government, upon receipt of such certificate, to direct, by Warrant under his hand, that such person shall be removed to such County Lunatic Asylum, or other proper receptacle for insane persons, as the said Lieutenant Governor or Administrator of the Government may judge proper and appoint ; and every person so removed under this Act, or already removed or in custody under any former Act relating to insane prisoners, shall remain under confinement in such County Asylum or other proper receptacle as aforesaid, or in any other County Lunatic Asylum or other proper receptacle to which such person may be removed, or may have been already removed, or in which he may be in custody by virtue of any like order, until it shall be duly certified to the said Lieutenant Governor or Administrator of the Government, by two Physicians or Surgeons, that such person has become of sound mind ; whereupon the said Lieutenant Governor or Administrator of the Government is hereby authorized, if such person shall still remain subject to be continued in custody, to issue his Warrant or Order to the Keeper or other person or persons having the care of any such Asylum or receptacle as aforesaid, directing that such person shall be removed back from thence to the Prison or other place of confinement from whence he or she shall have been taken ; or, if the period of imprisonment or custody of such person shall have expired, that he or she shall be discharged.

If certified to be insane, Lieutenant Governor to grant Warrant for removal to Lunatic Asylum.

If afterwards sane, how to be dealt with.

Warrant for removal back to Prison, or to be discharged.

IV. And be it enacted, That this Act may be altered, amended or repealed by any Act to be passed in the present Session of the General Assembly.

Act may be altered this Session.

CAP. XLII.

An Act to consolidate and amend the Laws relating to the Registry of Deeds and other Instruments.

Passed 7th April 1847.

6 WHEREAS it is expedient to consolidate and amend the Laws relating to ' the Registry of Deeds and other Instruments, and the execution of ' Deeds by Femes Covert ;'

Preamble.

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the several Acts and parts of Acts hereinafter mentioned shall be and the same are hereby repealed, (save as hereinafter otherwise is provided,) that is to say : an Act passed in the twenty sixth year of the Reign of His Majesty King George the Third, intituled *An Act for the Public Registering of all Deeds, Conveyances and Wills, and other incumbrances which shall be made of, or that may affect any Lands, Tenements or Hereditaments within this Province ;* an Act passed in the twenty seventh year of the same Reign, intituled *An Act for more effectually securing the Title of Purchasers of Real Estates against claims for Dower ;* an Act passed in the thirty second year of the same Reign, intituled *An Act in amendment of an Act, intituled ' An Act for more effectually securing the Title of Purchasers of Real Estates against claims of Dower, ' and also to enable Femes Covert more easily to convey any Real Estate they may hold in their own right ;* an Act passed in the thirty third year of the same Reign, intituled *An Act in amendment of an Act, intituled ' An Act for more effectually securing the Title of Purchasers of Real Estate against claims of Dower ; ' an Act passed in the fifty second year of the same Reign, intituled *An Act supplementary to the Acts now in force for the Public Registering of Deeds, Conveyances and Wills, and other incumbrances of,**

Acts repealed, viz :

26 G. 3, c. 3.

27 G. 3, c. 9.

32 G. 3, c. 2.

33 G. 3, c. 5.

52 G. 3, c. 20.

of, or which may affect any Lands, Tenements or Hereditaments within this Province, and for more effectually securing the Title of Purchasers of Real Estates against claims of Dower; an Act passed in the eighth year of the Reign of His Majesty King George the Fourth, intituled *An Act to provide for the Registering of Judgments and Recognizances which are intended to bind or affect Real Estates*; the first and second Sections of an Act passed in the second year of the Reign of His late Majesty William the Fourth, intituled *An Act to improve the Law relating to Mortgages*; an Act passed in the seventh year of the same Reign, intituled *An Act in addition to the Acts relating to the Public Registry of Deeds in this Province*; and an Act passed in the fourth year of the Reign of Her present Majesty, intituled *An Act in addition to the Registry Acts of this Province*: Provided always, that nothing in this Act contained, shall extend to repeal any of the said recited Acts, so far as they or any of them repeal any former Act or Acts, or so far as respects any act, matter or thing heretofore done under or by virtue of the said recited Acts; and provided that every such act, matter or thing heretofore done under or by virtue of any of the said recited Acts, shall be and continue valid and effectual, and of the like force and effect as if this Act had not been made and passed; and provided further, that every Register now appointed under the provisions of any of the said recited Acts, shall continue in office, and have full power and authority to act under the provisions of this Act, until some other person be appointed in his place; and further provided, that the Registry Offices erected and established at the time of the passing of this Act, shall continue and remain to be the proper Registry Offices of the Counties for which they were respectively established, for all the purposes of this Act, until other Offices be erected in their place; and that the several Books of Record belonging to any such Offices shall still continue to be the Records of such Offices.

8 G. 4, c. 8.

2 W. 4, c. 23, s. 1 & 2.

7 W. 4, c. 15.

4 V. c. 33.

Repeal not to affect the repeal of former Acts, nor the validity of things done.

Registers, Registry Offices and Records to continue.

One Registry Office to be established in each County.

Register of Deeds to be appointed by the Lieutenant Governor;

Sworn;

Liab. for damages by neglect, &c.; and

To enter into a recognizance to Her Majesty.

II. And be it enacted, That in each and every County in this Province there shall be established one Public Office for the Registering of all Conveyances and other Instruments of and concerning any Lands, Tenements and Hereditaments, that are situate, lying and being within the County for which such Office is established.

III. And be it enacted, That such Office shall be managed and conducted by such person as shall thereto be nominated and appointed by the Lieutenant Governor or Administrator of the Government for the time being, and the person so appointed shall be designated the Register of Deeds of the County for which he is appointed; and before entering upon the duties of his office he shall be sworn before one of Her Majesty's Justices of the Peace well and faithfully to execute the duties of his office, which oath every such Justice is hereby empowered and required to administer; and if any such Register shall be guilty of any neglect, misdemeanor or fraudulent practice in the execution of his said office, he shall be liable to pay all damages, with full costs of suit, to the party injured, to be recovered in an action on the case in any of Her Majesty's Courts of Record in this Province; and that every such Register, at the time of his being sworn into the said office, shall enter into a recognizance with two or more sufficient sureties to be taken and approved of by the Justice by whom the said oath shall be administered, in the penalty of three hundred pounds to Her Majesty, Her Heirs and Successors, conditioned for his true and faithful performance of his duty, in the execution of the said office; the same to be transmitted within three months after the date thereof, by the said Justice, into the Office of the Clerk of Her Majesty's Supreme Court of Judicature, there to remain amongst the Records of the said Court; and a copy of such recognizance, certified by such Justice, shall

shall also be filed with the Clerk of the Peace for the County where such Register of Deeds resides, to remain with the Records of the Sessions for the said County.

IV. And be it enacted, That the said Register shall from time to time, as the same may be required, provide suitable Books for the Records, and Indices; that such Books shall be regularly paged throughout, and lettered, for the purpose of marking their regular succession, and that only one such Book shall be in course of filling up at any one and the same time; and such Indices to contain the names of the Grantees, the names of the Grantors and Grantees arranged in alphabetical order; that all conveyances and other instruments required to be registered in the County Registry shall be numbered in the order in which they are received, and shall be consecutively transcribed in the like order into the said Registry; that every such Register, or in case of the necessary absence or illness of the said Register, a sworn Deputy to be approved of by the Lieutenant Governor or Administrator of the Government for the time being, shall give due attendance at his office daily, from ten o'clock A. M. to four o'clock P. M., except Sundays and Holidays, for the despatch of all business belonging to his Office, and shall, as often as required, make searches concerning all conveyances and instruments so entered and registered, or supposed to be entered and registered, and give copies and certificates of and concerning the same under his hand; and in general that he shall do and perform all such matters and things as appertain to his Office of Register, and as are required by the provisions of this Act.

General duties of Registers.

V. And be it enacted, That all conveyances and instruments whereby any lands, tenements or hereditaments in this Province, may be any way affected in law or equity, may be registered at full length in the Registry Office of the County where the lands, tenements or hereditaments are situate, in such manner as is hereinafter directed; and that every conveyance or instrument not so registered, shall be adjudged fraudulent and void against subsequent purchasers for valuable consideration, unless such conveyance or instrument be registered as by this Act is directed, before the registering of the conveyance or instrument under which such subsequent purchaser shall claim: Provided always, that in all cases where any person in the official capacity of Sheriff, Coroner, Executor, Administrator, Master in Chancery, Trustee, Provisional Assignee of the Estate and Effects of any Bankrupt, Commissioner of Sewers, Collector, or of any other office, shall make and execute any conveyance of any interest in lands, tenements, or hereditaments, sold at public auction pursuant to the directions of any Act of the General Assembly, or of any Court of law or of equity, such conveyance, if registered within six months from the day of such public sale, shall be deemed as valid and effectual against any such subsequent purchasers as if the same had been made and registered immediately upon or after such sale; and provided also, that all Wills which shall be registered within the space of six months after the death of the deviser or testator, dying within this Province, or within the space of three years after his death, if dying without the limits of this Province, shall be deemed as valid and effectual against any such subsequent purchasers, as if the same had been registered immediately after the death of such deviser or testator.

Instruments affecting Lands may be registered; and to be void against subsequent purchasers unless registered before the subsequent purchaser's conveyance.

Conveyances by persons in an official capacity, and Wills registered within prescribed periods, to have the effect of immediate registry.

VI. And be it enacted, That in case the devisee or person interested in the lands, tenements or hereditaments devised by any Will, by reason of the contesting of such Will, or other inevitable difficulty, without his neglect or default, shall be disabled to exhibit the same for registry within the respective times hereinbefore limited, and that a memorial shall be entered in the said Registry Office of such contest or impediment, within the space of six months after the decease of such deviser or testator who shall die within this Province, or within the space

Wills being contested, or by other inevitable difficulty not registered, and a memorial of such impediment being entered, registry within six months after removal of impediment to be sufficient.

of three years next after the decease of such person who shall die without the limits of this Province, then, and in such case, the registry of such Will within the space of six months next after his attainment of such Will, or a Probate thereof, or removal of the impediment whereby he was so disabled or hindered as aforesaid, shall be a sufficient registry within the meaning of this Act, anything herein contained to the contrary thereof in any wise notwithstanding: Provided nevertheless, and be it enacted, that in case of any concealment or suppression of any Will or Devise, no purchaser or purchasers for valuable consideration, shall be defeated or disturbed in his or their purchases by any title made or devised in and by any such Will, unless the Will be actually registered within three years after the death of the devisor or testator.

Purchaser not to be defeated by any title under a suppressed Will, unless the Will be registered within three years.

Acknowledgment or proof of execution of a conveyance to be made before Registry:

How made, if executed in the Province;

If executed without the limits of the Province;

In Great Britain or Ireland;

In other parts of the British dominions;
In a Foreign State or Kingdom.

Reservation for Deeds proved before the passing of this Act.

Manner of certifying and authenticating acknowledgments or proofs of the execution of conveyances.

VII. And be it enacted, That before any such conveyance or instrument shall be so registered, the due execution of the same shall be made evident either by the acknowledgment of the party to be bound thereby, or by proof of the same, and a certificate of such acknowledgment, or proof thereof, as hereinafter mentioned, that is to say: the person executing such conveyance, as a party thereto, shall, either before the Supreme Court of Judicature for this Province, or any Judge thereof, or any Inferior Court of Common Pleas in any County in this Province, or any Judge thereof, or any Member of the Executive or Legislative Council in this Province, or before the Register, or any Justice of the Peace of the County in which the conveyance or instrument is to be registered, acknowledge that he did execute such conveyance or instrument; or else a subscribing witness attesting the execution of any such conveyance or instrument, shall, upon oath, before the said Supreme Court, or any of the Judges thereof, or some Inferior Court as aforesaid, or any Judge thereof, or any Member of the Executive or Legislative Council, or the Register of the County in which the conveyance or instrument is to be registered, prove the execution of such conveyance or instrument by the party thereto; or in case the subscribing witness or witnesses to any such conveyance or instrument shall be dead, or without the limits of the Province, that then the execution of such conveyance or instrument shall be proved before the said Supreme Court, or some Circuit Court, or Court of Nisi Prius, by the ordinary legal proof; or in case the person executing such conveyance or instrument as a party, or the subscribing witness or witnesses thereto, shall live out of the limits of this Province, the acknowledgment or proof of any such conveyance or instrument may be had and taken, if in Great Britain or Ireland, before any Judge of the Courts of Queen's Bench, or Common Pleas, or Baron of the Exchequer, or any Master in Chancery in England or Ireland; or any Judge or Lord of the Session in Scotland, or before any Mayor or other Chief Magistrate of the City, Borough, or Town Corporate in any part of the United Kingdom; and if in any other part of the British dominions, by and before any Judge of the Supreme or Superior Court of Judicature in such Colony or part of said dominions; or if in any Foreign State or Kingdom, before any public Minister, Ambassador or Consul from the Court of Great Britain, resident in any such State or Kingdom: Provided always, that any conveyance or instrument which may have been duly proved or acknowledged before the time of passing this Act, agreeably to the directions of the Acts then in force, may be registered agreeably to the provisions of this Act, without any further proof or acknowledgment, and being so registered, shall have the like force and effect as if the said Acts had not been repealed.

VIII. And be it enacted, That all such acknowledgments or proofs, or acknowledgments and declarations, so taken or made under and by virtue of this Act, shall be certified on such conveyances or instruments by the persons or authority before

before whom the same is taken or made, as follows, that is to say : if before any Court, then under the Seal of such Court, and the signature of some proper officer of such Court ; if before any such Judge, Councillor, Register, Justice of the Peace, or any Judge of the Court of Queen's Bench, or Common Pleas, Baron of the Exchequer, Lord of Session, or Master in Chancery, then under the hand of such persons respectively, by the name of their office ; or if before any such Mayor, or other Chief Magistrate of a City, Borough, or Town Corporate, Public Minister, Ambassador, or Consul, then under the Common Seal of such City, Borough, or Town Corporate, or the Seal of the Office of such Public Minister, Ambassador, or Consul ; such certificate being also authenticated, if in the British Plantations, (other than this Province,) under the Hand and Seal of the Governor, Lieutenant Governor, or person administering the Government, or some Notary Public, of the Province where the same shall be made ; and if in Great Britain or Ireland, when the same shall be made by any such Judge, Baron, Lord of Session, or Master in Chancery, then under the Public Seal of some Corporation there, certifying that all faith and credit ought to be given to the acts or attestations of the person or authority giving such certificate.

IX. And be it enacted, That in all cases where any married woman, being of the full age of twenty one years, having an interest in lands, tenements, or hereditaments, either in her own right, or in right of dower, or otherwise, shall sign, seal and deliver any conveyance of and concerning the same, such conveyance shall vest the estate or interest of such married woman in such lands, tenements, and hereditaments, in the person mentioned in such conveyance, according to the intents, uses and purposes therein expressed ; provided that such married woman do acknowledge such execution in the manner and before the like persons and authorities respectively as is hereinbefore provided for taking acknowledgments in other cases, and at the same time, being examined separate and apart from her said husband, shall declare that she so executed such conveyance freely and voluntarily, and without any threat, fear or compulsion from him, and that such acknowledgment and declaration be endorsed on said conveyance, and with the conveyance, be duly registered agreeably to the provisions of this Act ; and provided also, that the assent of the husband be given to such conveyance, to be signified by his joining therein, or becoming a party thereto.

X. And be it enacted, That all conveyances and instruments which shall be duly acknowledged or proved agreeably to the provisions of this Act, together with all certificates thereon, shall, on being produced to the said Register, be registered in the proper Registry Book in the order in which the same were received by him ; and the said Register shall endorse on the said conveyance or instrument, when so registered, a certificate under his hand, mentioning the day on which such conveyance or instrument was so registered, (being the day and hour on which it was so received by him for registry,) and expressing also in what book and page, and under what number, the same is registered ; which certificate shall be taken and allowed as evidence of such registry in all Courts of Record.

XI. And be it enacted, That all conveyances or instruments which shall be duly acknowledged or proved before any Court, officer or person authorized and empowered as aforesaid, and duly registered agreeably to the provisions of this Act, shall be and shall be deemed and taken to be good, effectual and available for the passing and transferring the estate and possession of such lands, tenements, and hereditaments, according to the intents, uses and purposes in such conveyance or instrument expressed, without livery of seisin, or any other act, or deed, or form, or ceremony whatsoever.

Conveyance by a married woman to vest her title in the grantee, provided an acknowledgment of voluntary execution be endorsed, &c. and the assent of the husband be given.

Register to register all duly acknowledged or proved conveyances produced to him, and endorse a certificate, which is to be received as evidence in all Courts of Record.

Conveyances duly acknowledged or proved, and registered, shall pass Estates without livery of seisin, &c.

XII.

Conveyances so registered, and copies thereof, to be as good and sufficient evidence as Deeds enrolled in Courts at Westminster.

XII. And be it enacted, That all conveyances or instruments so executed, acknowledged, or proved, and also registered, and which shall appear to be so acknowledged or proved, and registered, by endorsement or certificate thereon in manner aforesaid, and all copies of the registry thereof, duly certified by the Register, shall be allowed in all Courts where such conveyances and instruments, or copies, shall be produced, to be as good and sufficient evidence as any bargains and sales enrolled in any of the Courts of Westminster, and the copies of the enrolments thereof are in any Court in Great Britain.

A certified copy of the registry of a Deed may be produced in evidence on certain conditions.

XIII. And be it enacted, That in any suit in any Court of law or equity in this Province, where any party may be desirous of giving in evidence any conveyance or instrument which may have been duly registered pursuant to the Act or Acts of Assembly in such case made and provided, and which may be relevant to the matter in question, such party may produce in evidence a copy of the registry of such conveyance or instrument, certified under the hand of the Register of the County where the same may be registered; which copy shall in the absence of the original conveyance or instrument be received and allowed as good and sufficient evidence of the contents of such original conveyance or instrument: Provided always, that before any such copy shall be received in evidence, it shall be made to appear to the satisfaction of the Court, by affidavit, that such original conveyance or instrument is not in the possession or under the control of the party so offering such copy in evidence, and that such party doth not know where the same may be found; provided also, that at least fourteen days notice in writing be given to the adverse party, his Attorney or Agent, of the intention to offer such certified copy in evidence; which notice shall be accompanied by a copy of such certified copy, and of the affidavit hereinbefore required; and the due service of such notice, with the requisite accompaniments, shall also be proved either *viva voce*, or by affidavit, to the satisfaction of the Court.

No certified copy to be otherwise received in evidence unless by consent, &c.

XIV. And be it enacted, That no certified copy of the registry of any conveyance or instrument shall be received in evidence otherwise than is hereinbefore provided, unless by consent of parties, or unless it shall be made to appear to the satisfaction of the Court at which the trial may be had that the original conveyance or instrument is in the possession of the adverse party, and that due notice has been given to such party to produce the same at the trial, anything herein contained to the contrary notwithstanding.

Powers of Attorney duly proved, may be registered.

XV. And be it enacted, That every Letter or Power of Attorney, or other deed or instrument whereby power or authority is given to convey, transfer or affect any lands, tenements and hereditaments in this Province, may be registered in the same manner as any conveyance or instrument, provided the same shall have been duly acknowledged or duly proved in the same manner as is required by this Act for the acknowledging or proving of any conveyance or other instrument; and that the registry of any conveyance or instrument made and executed by virtue of any such power or authority shall not be valid and effectual, unless the deed or instrument granting such power or authority, or some deed or instrument subsequently confirming the same, shall be duly registered in the Registry Office of the County in which the lands, tenements or hereditaments to which the same may relate, are situate.

Conveyances founded on Powers of Attorney not registered, to be void, unless subsequently confirmed.

Penalties for forging certificates of acknowledgments, &c.;

XVI. And be it enacted, That if any person shall forge or counterfeit any certificate required by the provisions of this Act, of the acknowledgment or proof of any such conveyance or instrument, or of the registry thereof, such person being thereof lawfully convicted, shall incur and be liable to such pains and penalties as are imposed upon persons by the Laws of this Province for the crime

crime of Forgery ; and if any person shall, at any time, falsely, maliciously, and corruptly, make oath or swear before any Court, person, or authority, in any of the cases hereinbefore mentioned, and be thereof lawfully convicted, such person shall incur and be liable to all the pains and penalties inflicted upon persons committing and convicted of wilful and corrupt perjury.

XVII. And be it enacted, That any Mortgage already registered, or which may hereafter, under the provisions of this Act, be registered, may be discharged by a certificate under the hand and seal of the Mortgagee, his executors, administrators or assigns, declaring that all the monies due upon the Mortgage have been paid, or that the Mortgage has been otherwise satisfied and discharged ; which certificate shall be duly acknowledged or proved in like manner as a conveyance or instrument is required to be proved or acknowledged, agreeably to the provisions of this Act, and shall be registered at full length, with the acknowledgment or proof thereof, in the proper Registry Book, in the Office where the Mortgage is registered ; and the Register shall make an entry in the margin of the registry of the Mortgage, that such Mortgage is satisfied and discharged ; which entry shall refer to the book and page where such certificate is registered, and such certificate shall also be filed in such Registry Office ; or such Mortgagee, his executors, administrators, or assigns, may acknowledge the payment, and cause satisfaction thereof to be entered in the margin of the Registry Book, against the registry of the said Mortgage, and subscribe his proper hand and name thereto, in presence of the said Register, who shall also sign his name as a witness thereto.

XVIII. And be it enacted, That every discharge of Mortgage duly made and entered in the Registry Book, agreeably to the provisions of this Act, shall be valid and effectual to discharge and release the Mortgage to all intents and purposes, as well in law as at equity, from the time when such entry is made, and to revert the legal estate in the Mortgagor, his heirs, executors, administrators, or assigns, without any reconveyance thereof.

XIX. And be it enacted, That no judgment or recognizance (other than such as shall be entered into in the name and upon the proper account of Her Majesty, Her Heirs and Successors) shall affect or bind any lands, tenements, or hereditaments, situate, lying and being in any County within the Province, against any subsequent purchaser or mortgagee, for valuable consideration, but only after the time that a memorial of such judgment or recognizance shall be entered at the Register's Office of such County, expressing and containing, in case of judgments, the names of the plaintiffs and defendants, the sums thereby recovered, and the time of the signing thereof ; and, in case of recognizances, expressing and containing the date of such recognizance, the name and addition of the cognizers and cognizees therein, and for what sums, and before whom, the same were acknowledged ; and that, in order to the making an entry of such memorials of judgments and recognizances as aforesaid, the party or parties desiring the same shall produce to and leave with the Register, to be filed in the Register's Office, a memorial of such judgment or recognizance, signed by the proper Officer or his Deputy, together with an affidavit sworn before one of the Judges of the Supreme Court, or any Commissioner appointed to take affidavits to be read in the Supreme Court, (other than the Attorney in the suit,) that such memorial was duly signed by the Officer whose name shall appear to be thereunto set ; which memorial such Officer is hereby required to give such plaintiff or plaintiffs, defendant or defendants, cognizee or cognizees, his, her or their executors or administrators, or Attorney, or any of them ; provided that after the expiration of five years from and after the time of the registry of any such memorial of judgment, such memorial

and for falsely swearing, under this Act.

A Mortgage may be discharged by certificate of Mortgagee ;

[Certificate to be acknowledged or proved, and registered.]

or by acknowledgment entered in the margin of the Registry Book in presence of the Register.

Discharge of Mortgage duly made and registered, to revert the Estate in the mortgagor.

Judgments or recognizances not to affect Lands, &c. till a memorial be entered at the Register's Office in the County where the Lands, &c., lie, except in Crown cases.

Memorial and Registry to be void against purchasers

and

unless renewed within five years before the conveyance.

and registry shall be of no force or effect against any lands, tenements, or hereditaments, as to any purchaser for a valuable consideration, unless a like memorial is again registered within five years before the conveyance to any such purchaser is duly registered: Provided always, that any conveyance founded on a *bona fide* sale of such lands, tenements, or hereditaments, which may have taken place under execution issued on any such judgment, and duly registered before the registry of the conveyance to such purchaser, shall be good and effectual, notwithstanding a longer period than five years may have elapsed between the date of the registry of the memorial and the sale.

Register to make entry of the memorials, and give certificates.

XX. And be it enacted, That the said Register shall make an entry, and likewise, if required, shall give a certificate in writing, under his hand, of every such memorial of any judgment or recognizance brought to him to be so registered as aforesaid, and therein mention the certain day on which such memorial is so entered and registered, expressing also in what book, page and number the same is registered; and such certificate shall be taken and allowed as evidence of the registry of such memorial in all Courts whatsoever.

Certificate to be evidence.

Entry of satisfaction to be made opposite to the registry of the memorial on the production of a certificate.

XXI. And be it enacted, That in case of any judgment or recognizance whereof a memorial shall be entered in the Registry Office of any County pursuant to this Act, if at any time afterwards a certificate shall be brought to the Register, signed by the plaintiff in such judgment, or defendant, in case the judgment be for such defendant, and cognizee in such recognizance, or his attorney, executors, administrators, or assigns, and attested by two witnesses, whereby it shall appear that the monies due upon or by virtue of such judgment or recognizance have been paid and satisfied in discharge thereof; which witnesses, or one of them, shall upon oath before one of the Judges of the Supreme Court, or any of the Commissioners as aforesaid, or the said Register, prove that the said plaintiff or defendant, or cognizee, or his lawful attorney, executors, administrators, or assigns, signed such certificate, and acknowledged such payment or satisfaction, or if a certificate is produced to the Register, signed by the proper Officer or his Deputy, and duly proved in the manner hereinbefore directed, that satisfaction of such judgment or recognizance has been duly entered upon record, or that an execution issued upon such judgment has been returned duly satisfied, that then, and in every such case, the said Register shall make an entry in the margin of the said Registry Book against the registry of the memorial of such judgment or recognizance, that the same was satisfied and discharged according to such certificate, to which the same entry shall refer, and shall afterwards file such certificate, to remain upon record in the said Registry Office.

Act not to affect priority given by Act 26 G. 3, c. 12.

XXII. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed to affect the priority given in and by an Act made and passed in the twenty sixth year of the Reign of His Majesty George the Third, intituled *An Act subjecting Real Estates in the Province of New Brunswick to the payment of debts, and directing the Sheriff in his proceedings thereon, to executions which may be taken out and executed upon Real Estates within the Province.*

Judgments or Recognizances in any Inferior Court not to affect Lands, &c. except in Crown cases.

XXIII. Provided also, and be it enacted, That no judgment of any Inferior Court, or recognizance entered into before any Inferior Court or Judge thereof, (other than such as shall be entered into in the name of Her Majesty, Her Heirs and Successors,) shall affect or bind any lands, tenements or hereditaments within this Province, any law, usage or custom to the contrary notwithstanding.

Act not to extend to short Leases.

XXIV. And be it enacted, That this Act shall not extend to any Lease not exceeding three years, where the actual possession and occupation go along with the Lease.

XXV. And be it enacted, That in all conveyances registered in pursuance of this Act, whereby an inheritance in fee simple is limited to the grantee or bargainee, and his heirs, the words 'grant, bargain and sell,' shall amount to and be construed and adjudged in all Courts of Judicature, to be express covenants to the bargainee or grantee, his heirs and assigns respectively, from the bargainor and grantor, for him and themselves respectively, their several and respective heirs, executors and administrators, that the bargainor and grantor respectively, notwithstanding any act done by him or them, was and respectively were, at the time of the execution of such deed and deeds, seized of the hereditaments and premises thereby granted, bargained and sold, of an indefeasible estate of inheritance, in fee simple, free from all incumbrances, (rents, duties, conditions and services due and reserved to the Queen only excepted,) and for quiet enjoyment thereof against the grantor and bargainor, his and their heirs and assigns respectively, and all claiming under him or them, and also for further assurance thereof to be made by the grantor and bargainor, his and their heirs and assigns, and all claiming under him or them, unless the same shall be restrained and limited by express particular words contained in such deed or deeds; and that the bargainee and grantee, their and each of their heirs, executors, administrators and assigns respectively, shall and may, in any action or actions 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, deed and conveyance aforesaid.

In registered conveyances the words 'grant, bargain, and sell,' shall be adjudged tantamount to certain express covenants.

XXVI. And be it enacted, That no mortgage, judgment or other incumbrance on land, shall have any priority or effect by reason of being held by or being vested in the same person with another mortgage or incumbrance of prior date and registry, any law, usage or custom to the contrary notwithstanding.

No Mortgage, &c. to have priority by being held with another Mortgage, &c.

XXVII. And be it enacted, That process of Subpœna may be issued out of the said Supreme Court of Judicature as in ordinary cases, (and in such form as the said Court may by general rule or order prescribe,) to compel the attendance of any witness, or the production of any conveyance or instrument for the due proof thereof, in order to be registered agreeably to the provisions of this Act; and such Court shall have the like power to punish disobedience to any such Subpœna in the same manner and to the same extent as in other cases; provided that no such witness shall be compelled to produce under such Subpœna any writing or other document that he would not be compelled to produce on a trial.

Supreme Court may issue Subpœnas to compel the attendance of witnesses and production of Conveyances.

XXVIII. And be it enacted, That the fees to be hereafter received for services and proceedings under this Act shall be according to the Table of Fees in the Schedule to this Act annexed: Provided always, that no Register shall be obliged to receive any conveyance or instrument for the purpose of being registered by him, unless the fees, if demanded, for registering the same, be first paid.

Fees to be as in the Schedule, and pre-paid if demanded.

XXIX. And be it enacted, That where by the provisions of any Act of Assembly heretofore made and passed, and not by this Act repealed, any Deed or Conveyance is required or authorized to be acknowledged or proved, and registered agreeably to the directions of the Registry Acts then in force, the acknowledgment or proof, and registry of any such Deed or Conveyance hereafter to be made shall be according to the directions of this Act, and being so done, shall be deemed good and effectual for all the intents and purposes contemplated by any such Acts.

Acknowledgments, &c., of Deeds agreeably to this Act shall fulfil the directions of previous Acts requiring their acknowledgment, &c.

XXX. And be it enacted, That throughout this Act, in the construction thereof, except there be something in the subject or context inconsistent with or repugnant to such construction, the word "County" shall extend to and mean any County, or City and County within this Province; that the word "Oath" shall include affirmation, when by law such affirmation is required or allowed to be taken in place

Construction of Act.

"County."
"Oath."

Number. Gender. "Conveyance" or "Instrument." place of an oath; and when the subject or context requires it, every word importing the singular number or the masculine gender only, shall include and extend to several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals; and the words "Conveyance" or "Instrument," shall extend and apply to any Deed, Will, Devise or Lease.

Act may be altered this Session. XXXI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of the Legislature.

SCHEDULE.

TABLE OF FEES.

Register of Deeds.

Table of Fees.

Every Search, Certificate, Registry of Memorial of Judgment, or Entry of Satisfaction of Judgment, each £0 1 0
 And no further sum to be charged for Searches made the same day relating to one Title than five shillings; and the party searching shall only pay for looking at Deeds or Instruments relating to the Title in question.

Taking Acknowledgment, or Proof, as the case may be, and Certificate thereof endorsed, 0 3 0
 And when a Feme Covert acknowledges at the same time with her Husband, or several persons acknowledge or prove at the same time, and are included in the same Certificate, then a further sum of 1s. for each person.

Preparing Discharge of Mortgage on the margin of the Registry, and attesting the signature of Mortgagee, &c. thereto, 0 3 0

Registry of every Conveyance or Instrument, and Certificate of acknowledgment, or proof thereof, and all copies from the Records, for every one hundred words, 0 1 0

Justice of Peace, or other authority.

Taking Acknowledgment or Proof, and Certificate thereof—The same as provided for the Register.

Witness.

Attending any Court under Subpœna—The same as allowed between party and party in such Court.

CAP. XLIII.

An Act relating to Banks for Savings.

Passed 7th April 1847.

Preamble.

6 **W**HEREAS the Acts now in force relative to Banks for Savings have, in many parts of this Province, been found insufficient to effect the objects contemplated, and it is expedient to repeal the same, (except so far as may relate to the Savings' Bank established at the City of Saint John,) and to make other provision in lieu thereof;

Acts repealed, viz :

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, that the several Acts hereinafter mentioned, shall be and the same are hereby repealed, (save as is hereinafter otherwise provided,) that is to say : an Act passed in the sixth year of the Reign of His late Majesty King George the Fourth, intituled *An Act to encourage the establishment of Banks for Savings in this Province* ;

6 G. 4, c. 4.