

Laws of Her Majesty's Province of Newfoundland, passed in the year 1844.

7 Victoria – Chapter 10

An Act to amend the Laws now in force for the Registering of Deeds in this Colony. (Passed 29th April, 1844.)

Whereas by an Act passed in the first year of the Reign of Her present Majesty, entitled “An Act to repeal part of an Act passed in the Parliament of Great Britain, in the fifth year of the Reign of His Majesty King George the Fourth, intituled ‘An Act for the better Administration of Justice in Newfoundland, and for other purposes,’ and to make further provision for the Registration of Deeds in this Colony,”—it was enacted that from and after the passing of the said Act, in all cases where Deeds, Conveyances, and other Assurances, of what nature or kind soever, whereby any Lands or Tenements situate in the said Colony or the Dependencies thereof had been or might be thereafter granted, conveyed, mortgaged, charged, or otherwise affected, or intended so to be, should not have been left at the proper Office for the Registration thereof, within the times prescribed by the said in-part-recited Act of the fifth year of King George the Fourth, or where the execution thereof should not have been acknowledged before the Registrar by the party or parties from whom any interest might pass, or their Attorney duly appointed, it should and might be lawful for the Registrar of Deeds for the District wherein the Lands affected by the said Deed, Conveyance or other Assurance, should be situated, and he was thereby required, to register the same upon Affidavit being made by one of the subscribing Witnesses of the due execution thereof by the parties thereto, which Affidavit might be taken before the Registrar of each of the said Districts, or before any Commissioner duly authorised to take Affidavits in the Supreme Court, or before any Justice of the Peace of this Island, —whereupon the said Deed, Conveyance, or other Assurance, should be deemed and taken to be duly Registered: And whereas it has been doubted whether by the said Act of Her Majesty the Registrars of Deeds are authorised to register Deeds upon Affidavits made by subscribing Witnesses unless in cases where such Deed shall not have been left for Registration within the time prescribed by Law, or where the execution thereof shall not have been acknowledged before the Registrar by the party or parties from whom any interest may pass, or their Attorney duly appointed; and it is expedient that in all cases the Registry of Deeds should be allowed either upon the Affidavit of the subscribing Witness, or upon the acknowledgment of one of the parties from whom the interest may pass.

II. Be it declared and enacted, by the Governor, Council and Assembly, in Legislative Session convened, that all Deeds, Conveyances and Assurances, whereby any Lands or Tenements situate in this Colony or its Dependencies have been or may be hereafter granted, conveyed, mortgaged, charged or otherwise affected, may be Registered up on the Affidavit of one of the subscribing Witnesses, taken in the manner required by the said recited Act of Her present Majesty, or under the provisions of this Act.

II. And be it enacted, that the Affidavit of any such subscribing Witness to any such Deed, Conveyance, or other Assurance, residing out of this Colony, may be taken before any Judge of a Superior Court of Judicature, or before any Master-in-Chancery, or before the Chief Magistrate of any town or place in or near to which such Witness may reside: Provided that no Affidavit to be taken

elsewhere than in this Colony shall be deemed valid, unless the signature of such Judge, Master-in-Chancery, or Chief Magistrate, be verified by the Certificate of some Notary Public of or near to the town or place where the same shall be sworn, or by the Corporate or other Public Seal of such town or place.

III. And Whereas certain Deeds, Conveyances, or other Assurances aforesaid, executed out of this Colony, have been from time to time Registered therein on the acknowledgment by persons appointed for that purpose as the Attornies of the parties executing such Deeds, Conveyances or other Assurances, by Instruments not under Seal: And whereas doubts have been raised respecting the validity of such appointments: Be it therefore declared and enacted, that all Deeds, Conveyances and other Assurances, aforesaid, which have been so bona fide, registered, shall be deemed and taken, as far as regards the validity of such appointments, to have been duly registered:

Provided always, and be it further enacted, that no appointment which shall be hereafter made for the purpose of acknowledging any such Deed, Conveyance, or other Assurance aforesaid, executed out of this Colony, shall be deemed valid or effectual for the Registering of any such Deed, Conveyance or other Assurance aforesaid, in any District of this Colony, unless such appointment shall be under the Hand and Seal of the party or parties executing the same.

IV. And be it enacted, that at any time when by the provisions of this Act, or of the said Act passed in the first year of Her Majesty's Reign, such Deed, Conveyance, or other Assurance, may be Registered upon the Affidavit of one of the subscribing Witnesses, such Deed, Conveyance, or other Assurance, may be Registered by acknowledgment of the party or parties from whom the Interest may pass.

V. And be it enacted, That every such Deed, Conveyance, or other Assurance, shall be deemed and taken to be a Registered Deed, Conveyance, or Assurance, from the time when the execution thereof shall be duly acknowledged before the proper Registrar, or from the time when such Deed, Conveyance, or other Assurance, accompanied by the proper Affidavit of the subscribing Witness, shall be left with such Registrar for registration.

VI. And be it enacted, that all Deeds, Conveyances and other Assurances aforesaid, which have been or which hereafter shall be registered on the acknowledgment of a party executing the same after the expiration of Six Months or Twelve Months respectively from the time of such execution, shall be deemed to be duly registered in like manner as if such Deeds, Conveyances or other Assurances had been or were registered on the Affidavits of subscribing witnesses under the provisions of the herein before in part recited Act; and all Deeds, Conveyances or other Assurances aforesaid which have been or which hereafter shall be required on the Affidavits of subscribing witnesses thereto within the period of Six or Twelve Months respectively from the execution thereof, shall be deemed to be duly registered in like manner as if such Deeds, Conveyances or other Assurances had been or were registered on the acknowledgment of some party executing the same.

VII. And be it enacted, That where any person shall execute in any place out of this Colony any Deed, Conveyance, or other Assurance, affecting Lands, Tenements, or Hereditaments within this Colony, or which require to be Registered within the same, it shall be lawful for the Registrar of Deeds for the

District wherein such Lands, Tenements, or Hereditaments are situated, to Register such Deed, Conveyance, or other Assurance, upon the production to him of a copy of the said Deed, Conveyance, or other Assurance, duly verified by Affidavit and authenticated by the Certificate of any Judge of a Supreme Court of Record, Master-in-Chancery, Chief Magistrate, or Notary Public of or near to the place where the person executing such Deed, Conveyance or other Assurance, may reside; and such Registration shall be as valid, to all intents and purposes, as if the original Deed, Conveyance, or other Assurance, had been produced to such Registrar.