

## CAP. XLVII.

## An Act to amend the Act providing for the Organization of the Notarial Profession in Lower-Canada.

[30th May, 1849.]

Preamble.

**W**HEREAS it is expedient to amend in the manner hereinafter provided the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act for the Organization of the Notarial Profession in that part of this Province called Lower-Canada*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the seventeenth Section of the said Act shall be and is hereby so amended that it shall with regard to things to be done after the passing of this Act be read and construed as if it were in the words following, that is to say: And be it enacted, That from and after the passing of this Act, no person shall be admitted as a Student with any Notary, unless he shall previously have passed a public examination before one of the Boards of Notaries as to his qualifications and abilities, and have made proof of having pursued for five years a regular course of study in some one or more of the Seminaries or Colleges named in the fourteenth Section of the said recited Act, or shall otherwise have received a Classical Education, and shall have proved the same by a certificate thereof, which shall be annexed to his Articles, or by his examination before the said Board, and a copy of such Articles and of every assignment thereof, shall be filed in the Office of the Secretary of such Board within thirty days from the date thereof, on pain of nullity: Provided always, that nothing in this Act shall be construed to apply to any Student whose Articles shall have been passed before the passing of the said recited Act, nor to affect the right of any such Student to obtain his admission as a Notary at the expiration of the Term of such Articles, subject to the requirements of the Law in force at the time when such Articles were executed—excepting always, that every such Student shall cause an authentic copy of his Articles to be filed in the Office of the Secretary of the Board of Notaries within whose jurisdiction his Patron shall reside, within six months after the passing of this Act.

In what manner the 17th sec. of 10 & 11 Vic. shall be construed. Examination and qualification of students.

Copy of articles, &c., to be filed with the proper Board. Provide as to students articulated before the passing of the amended Act.

Such students to file copies of their articles.

## CAP. XLVIII.

## An Act to amend the Ordinance providing for the Enregistration of Titles to Immoveable Property, and Incumbrances thereon.

[ 30th May, 1849. ]

Preamble.

**W**HEREAS great inconvenience and useless expense have arisen from the carrying into effect of certain parts of the Ordinance of the Governor and Special Council of and for the late Province of Lower-Canada, passed in the fourth year of Her Majesty's Reign, and 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*

Ordinance 4 V. c. 30, cited.

improvement of the law, in certain particulars in relation to the alienation and hypothecation of real estates, and the rights and interest acquired therein, and it is expedient and necessary to amend the said Ordinance by repealing certain parts thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the twenty-second section of the said Ordinance, in so far only as it relates to the relations and friends who have concurred or who may hereafter concur in the election of any tutor or guardian to a minor or minors, or of any curator to any person or persons interdicted, shall be and is hereby repealed, and shall be as if it had never been enacted, and shall remain in force only as regards subrogate tutors: and that the thirty-fourth section of the said Ordinance relating to married women of full age shall be wholly and entirely repealed, and shall be void as if it had never been enacted; and that all deeds of sale or conveyance of lands belonging to any such married woman as *propres*, consented to by her without previous examination before a Judge or before a Court of Justice, and all acts and things whatsoever done by any such married woman as aforesaid since the said Ordinance came into force, shall avail and have effect as if the said thirty-fourth section of the said Ordinance had never been enacted.

Sect. 22 repealed except as to subrogate Tutors.

Sect. 34 and 36 repealed, and certain acts of married women confirmed.

II. And be it enacted, That for and notwithstanding any thing in the said Ordinance, it shall be lawful for the Registrars of the Counties of Quebec and Montreal respectively, to have and keep separate Books and Registers (of the kind and form required by the said Ordinance, and authenticated in the manner thereby prescribed as to those in which memorials are to be registered,) for the registration at full length of deeds, instruments and writings of each of the classes hereinafter mentioned, that is to say:

Registrars at Quebec and Montreal may keep separate Books for the Registration at full length of certain classes of deeds and instruments.

*First.* Bonds, recognizances and other securities and obligations in favor of the Crown, wills and testaments, and probates or office copies of wills and testaments.

*Second.* Marriage contracts and donations.

*Third.* Appointments of tutors and curators, judgments and judicial acts and proceedings.

*Fourth.* Deeds of alienation and conveyance (*titres translatifs de propriété*;) not being of any of the classes hereinbefore mentioned, including exchanges and leases for more than nine years, and deeds of partition.

*Fifth.* Deeds, instruments and writings creating mortgages, privileges, hypothèques or incumbrances, and not being of any of the classes hereinbefore mentioned.

*Sixth.* All other deeds, instruments and writings not being of any of the classes hereinbefore mentioned; and the registration thereof at full length in such books respectively, shall be valid and effectual to all intents and purposes; and the registration

registration of any deed, instrument or writing at full length in any book, except that kept for the registration of memorials, shall not affect the validity of such registration although the Registrar may have mistaken the class to which such deed, instrument or writing properly belongs.

Deputy Registrars may resign or be removed.

Others to be appointed within a certain time.

III. And be it enacted, That for and notwithstanding any thing in the said Ordinance, any Deputy Registrar may resign or be removed from office by his Principal, and in the event of such resignation or removal, it shall be incumbent on such Principal to appoint another Deputy in his place within twenty days after the occurrence of such resignation or removal. And if any such Registrar shall neglect to appoint a Deputy Registrar as hereinbefore 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 Lower-Canada, and one half thereof shall go and be paid to Her Majesty, Her Heirs and Successors, and the other half thereof to the informer.

#### C A P . X L I X .

An Act to amend the Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act the better to facilitate Optional Commutation of the Tenure of Land en roture, in the Seigniories and Fiefs in Lower-Canada, into that of franc-alleu roturier.*

[30th May, 1849.]

Preamble.

**W**HEREAS by the Law of Lower-Canada, a fine has always been payable to the Sovereign, upon the acquisition, by any Religious or Ecclesiastical Community, or other Corporate Body, of any Seigniority or Fief therein, as an indemnity for the loss of the casual profits of such Seigniority or Fief, in consequence of the same being thereafter held in mortmain; And whereas it is neither just nor expedient that such Religious or Ecclesiastical Community, or other Corporate Body, after having paid such fine or indemnity, or after the same having been graciously remitted to them by Her Majesty or any of Her Royal Predecessors or Successors, should be liable to pay a further fine or indemnity upon the Commutation of the Tenure of any land held *en roture* in any such Seigniority or Fief; And whereas it is expedient to amend an Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act the better to facilitate Optional Commutation of the Tenure of Lands en roture, in the Seigniories and Fiefs in Lower-Canada, into that of franc-alleu roturier*, in this particular, and also in so far as the same unnecessarily imposes upon the vassals (*censitaires*) of such Religious or Ecclesiastical Communities or other Corporate Bodies, holding Seigniories or Fiefs in mortmain in Lower-Canada, conditions and restrictions as to Commutation of the Tenure of their Lands, more onerous than those imposed upon the vassals (*censitaires*) of other Seigniories: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the said Act as requires, or may

Act 8 Vict. c. 42 cited.

Certain parts of the said Act