

*Provincial Statutes of Canada*, passed in the year 1845. Montreal: Stewart Derbishire & George Desbarats, 1845.

8 Victoria – Chapter 27

**An Act to amend the Act and Ordinance therein mentioned, relative to the Registration of Titles to and Incumbrances upon Real Property in Lower Canada. (29th March, 1845.)**

Whereas it is expedient to make the exercise or disposal of certain rights less difficult and expensive, and further to facilitate the Registration of certain Titles relative to Immoveable Property in Lower Canada, by amending and repealing certain parts of the Ordinance of the Governor and Special Council for the affairs of 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 or incumbrances upon 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 interests acquired therein; and of the Act of the Parliament of this Province, passed in the seventh year of Her Majesty's Reign, and intituled, "An Act to amend the Ordinance providing for the Registration of Titles to Real Property or Incumbrances thereon in Lower Canada, and further to extend the time allowed by the said Ordinance for the Registration of certain Claims:" 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 whenever registration shall be made by Memorial in the manner prescribed by the said Ordinance, such Memorial may be executed by and registered at the instance of any party having an interest, direct or indirect, in the registration, or by and at the instance of the debtor or party charged with the incumbrance to be registered; that the Memorial may be attested before any Notary, or any Commissioner appointed to receive affidavits to be used in the Court of Queen's Bench, or any Justice of the Peace, and such Notary, Commissioner, or Justice of the Peace, shall and they are hereby authorized to administer the oath or oaths prescribed by the said Ordinance, and such oath or oaths shall have the same force and effect as if it or they had been administered by a Judge of the Court of Queen's Bench or of any Circuit Court in Lower Canada; that the registration by such Memorial shall avail to all parties interested in the Deed or Instrument to which the Memorial shall relate; and that any such Memorial may, without further proof, be presented to the Registrar or his Deputy for registration by any person whomsoever, and registered, on his producing the Documents on which it shall be founded; and the Memorial shall remain of record in the hands of the Registrar, who shall thereupon mark upon the said Documents,— "Registered by Memorial, (mentioning the year, month, day and hour of registration, and the books in which the entries are made,)" and shall certify the same by his signature; and for such certificate the Registrar shall be entitled to the sum of one shilling and six pence, currency.

II. And be it enacted, That any Memorial executed in any part of this Province, may, upon the observance of the formalities aforesaid, and without any other formality whatever, be validly registered at the instance of any person whomsoever.

III. And be it enacted, That the words “legal and customary dower,” in the thirty-fifth section, or in any other part of the said Ordinance, shall be deemed to include not only legal and customary dower, but also stipulated (préfixe) or conventional dower; and that such interpretation shall apply to all transactions or acts entered into or done by any married woman since the said Ordinance came into effect, and they shall avail as if such the said section had clearly included and been intended to apply to stipulated (préfixe) or conventional dower, as well as to legal and customary dower.

IV. And be it enacted, That it shall be lawful for any married woman, of the full age of twenty-one years, to release her dower and right to dower, whether customary or conventional, (préfixe) on any real or immoveable property whatever, by an instrument (Acte) separate from and posterior to that by which such property may have been sold, conveyed, exchanged, given, or otherwise alienated either by her husband alone or by her husband and herself jointly, and whether such instrument shall be or have been executed before or after the passing of this Act, or before or after the day on which the said Ordinance came into force, and the release of dower to be so made shall have the same effect with regard to such married woman, her children, heirs, or legal representatives, or other persons whatsoever, and with regard to conventional as well as customary dower, as the release of dower made under the thirty-fifth section of the said Ordinance would have under the said section, or the thirty-seventh section, or any other part of the said Ordinance, or of this Act, with regard to the same parties and to the legal or customary dower.

V. And be it enacted, That every Registrar shall provide himself with a sufficient number of books, and shall employ a sufficient number of writers, for the purpose of entering and transcribing therein all Deeds, Instruments and Documents, which shall have been entered in his office for registration on or before the first day of November last, following the orders of the numbers of the entries, so as to form regular volumes, in the order of the dates and numbers of such entries, and which books shall be authenticated by the proper officer,—all which shall be done by each Registrar, so as to complete the registration of the said Documents within six months from the passing of this Act; and in order to facilitate the procuring of certificates of the registration of any Deed or Document, it shall be sufficient that in any such certificate granted within six months from the passing of this Act, and relating to any Deed or Instrument registered on or before the first day of November last, mention be made of the day and hour of the entry for registration, and the number of the entry, without mentioning the book or page, and such certificate shall be taken and allowed as evidence of registry as if granted in the form prescribed by the said Ordinance.

VI. And be it enacted, That all entries made as aforesaid shall be as valid, and shall have the same effect in law, as if they had been made in books previously authenticated as required by the said Ordinance: Provided always, that nothing contained in the next preceding Section shall be

construed to affect in any manner the mode of registering any deed, instrument, or document which shall have been presented for registration after the said first day of November last, save and except that any certificate of the entry for registration of any such deed, instrument or document, granted before the passing of this Act, or within six months thereafter, mentioning the day and hour of such entry, and the number thereof, without mentioning the book or page, shall be taken and allowed as evidence of the registry as if granted in the form prescribed by the said Ordinance.

VII. And be it enacted, That the registration of any title to or instrument creating any charge, incumbrance, or servitude upon any immoveable property, posterior to the title of any party who shall be in open and public possession of such property as proprietor, shall not affect the title or rights of such party, although the title of such party be not registered until after the registration of such posterior title or instrument.

VIII. And be it enacted, That this Act shall continue and be in force for and during the space of two years and to the end of the then next ensuing Session of the Provincial Parliament, and no longer.