

Laws of Her Majesty's Province of United Canada, passed in the year 1846. Montreal:
Stewart Derbishire & George Desbarats, 1846.

9 Victoria – Chapter 12

An Act to remedy certain defects in the Registration of Titles in the County of Hastings in Upper Canada. 18th May, 1846.

Whereas Robert Charles Archibald McLean became Deputy Registrar of the county of Hastings, on the Nineteenth day of January, in year of our Lord, one thousand eight hundred and thirty-three, and continued in the said office until the Fourth day of October, one thousand eight hundred and forty-four; And whereas, during the time aforesaid, divers deeds, conveyances and wills, or the probates thereof, with memorials concerning lands in the said County, were duly brought to the said Robert C. A. McLean, to be registered in due form of law; And whereas the said Robert C. A. McLean, in numerous instances, neglected to enter the said memorials as by law required, but it nevertheless indorsed a Certificate of Registry in due form on such deeds, conveyances, wills or probates; And whereas great injury and loss may arise from such neglect, and it is necessary to provide a remedy for the same: 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, intituled, *An Act to reunite 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 it shall be the duty of the Registrar of the said county, either by himself or his Deputy, to cause to be inserted, not less than twice in each month for the six months next ensuing the passing of this Act, in the Canada Gazette, and in all the newspapers published in the said county, a notice calling upon all persons who may have any deeds, conveyances, wills or probates, on which a Certificate of Registry has been endorsed, and signed by the same Robert C. A. McLean, as Deputy Registrar of the said county, to produce such deeds conveyances, wills or probates, together with a memorial thereof in the form now required by law, (except that such memorial need not be signed or sealed by any person,) on which memorial shall be endorsed a true copy of the certificate on the deed, conveyance, will or probate, to which it relates, on or before the first day of January next, at the office of the Registrar of the said county, or they will not be entitled to the protection and benefit of this Act.

II. And be it enacted, That on every such production it shall be the duty of the Registrar, or his Deputy, to compare the memorial with the deed, conveyance, will or probate to which it relates, and to endorse on the same in figures the number of the memorial mentioned in the certificate of the said Robert C. A. McLean, indorsed on such deed, conveyance, will or probate, and also to require proof by oath or affirmation, (which oath or affirmation the said Registrar and his Deputy are hereby severally authorized to administer,) that the person taking the same is acquainted with the signature of the said Robert C. A. McLean, and verily believes the signature to the Certificate of Registry indorsed as aforesaid, to be of the proper handwriting of the said Robert C. A. McLean, and that the copy of the certificate indorsed on such memorial is a true copy of the original; and the said Registrar or his Deputy shall thereupon indorse on every such deed, conveyance, will or

probate, the words “examined and re-entered,” and the date of his making such indorsement, and shall sign the same.

III. And be it enacted, That every such deed, conveyance, will or probate, brought to the Register Office of the said County, and indorsed as examined and re-entered, shall thenceforth be deemed, held and taken in all courts and places, and for all purposes to have been duly registered on the day and at the hour mentioned in the certificate of the said Robert C. A. McLean indorsed thereon: Provided always, that in all cases of dispute as to the priority of time at which any memorial was produced to the said Robert C. A. McLean for the registry thereof by reason of the same day, month, year, and hour, being mentioned in two or more certificates signed by the said Robert C. A. McLean, the deed or conveyance earliest in date, shall be deemed and taken for all purposes to have been first registered: Provided always, that nothing in this Act contained shall divest or be construed to divest from any person or persons, any estate or interest, in lands acquired by such person or persons, without notice of a prior defectively registered conveyance thereof, which estate or interest in lands is now vested in such person or persons under or by virtue of the provisions of an Act of the Legislature of that part of the Province of Canada, heretofore known as Upper Canada, passed in the thirty-fifth year of the Reign of His late Majesty King George the Third, intituled, *An Act for the public Registering of Deeds, Conveyances, Wills, and other Incumbrances which shall be made or may affect any lands, tenements, or hereditaments within this Province*, but that such estate and interest in lands so acquired without notice of such prior defectively registered conveyance shall remain vested as if this Act had not been passed.

IV. And be it enacted, That it shall be the duty of the said Registrar or his Deputy, to keep an Index Book for every town or township in the County, for memorials to be brought to his office in pursuance of this Act, and upon the receipt of any such memorial, forthwith to enter in the Index Book of the proper town or township the piece or parcel of land, lot or part of lot, concession or other description mentioned in such memorial as being conveyed, assured, devised, or in any wise affected in or by the deed, conveyance, will, or probate, to which such memorial relates, with the names of the parties to such deed or conveyance, and the devisor and devisee named in any will, and the number of such memorial and the date of the Certificate of Registry by the said Robert C. A. McLean, and the date of the certificate of examination and re-entry thereof, indorsed by the Registrar or his Deputy, in such manner and so arranged as to afford an easy and convenient reference to all parties desiring to search respecting the same.

V. And be it enacted, That all persons making search respecting any memorial brought to the Registry Office pursuant to this Act, shall be entitled to see and examine the memorial as well as the entry in the Index Book, relating thereto.

VI. And be it enacted, That it shall not be lawful for the said Registrar or his Deputy to receive and index any memorial under and by virtue of this Act, or to indorse any deed, conveyance, will, or probate, to which such memorial relates in manner hereinbefore authorized, after the first day of January next.

VII. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed to extend, to avoid, diminish, or invalidate any Registry duly made by the said Robert C. A. McLean, or the Registry of any deed, conveyance, will, or probate, which, having been irregularly registered by the said Robert C. A. McLean, shall have afterwards been duly registered according to law.

VIII. And be it enacted, That this Act shall extend to authorize the re-entry of Certificates of Mortgages being paid, and to make the same effectual and binding on the parties thereto, upon proof of the handwriting of the said Robert C. A. McLean to any entry, note, memorandum, or certificate shewing such certificate to have been brought to him for the due entry thereof.

IX. And be it enacted, That the following fees and no other or greater shall be payable to the Registrar or his Deputy under this Act: For receiving and marking every memorial, administering the oath or affirmation required and certifying the deed, conveyance, will, or probate, to which such memorial relates, and endorsing the same, two shillings and six pence, payable by the party producing such memorial at the time he shall produce the same; every search under this Act, payable by the party searching, one shilling; preparing and transmitting every notice for publication in the Gazette and newspapers, each notice two shillings and six pence, to be paid, together with the sum disbursed by the Registrar or his Deputy for the charge of publication, by the Treasurer of the District, and to be charged by and allowed to him in his accounts with the District; for each Index Book the sum actually disbursed to be paid and charged by and allowed to the Treasurer of the said District in manner aforesaid.

X. And be it enacted, That every wilful neglect or breach of any duty required to be performed under this Act by the said Registrar or his Deputy shall subject the Registrar or his Deputy respectively to the like prosecution, suit, penalty, forfeiture and punishment as if the offence were committed against any of the provisions of the Act of the Parliament of Upper Canada, passed in the thirty-fifth year of the Reign of His late Majesty King George the Third, intituled, *An Act for the public Registering of Deeds, Conveyances, Wills, and other Incumbrances, which shall be made or may affect any lands, tenements, or hereditaments within this Province*; or of any Act passed or to be passed during the present Session, repealing the said Act, and making other provisions instead thereof.