

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart Derbyshire & George Desbarats, 1849.

12 Victoria – Chapter 48

An Act to amend the Ordinance providing for the Enregistration of Titles to Immoveable Property, and Incumbrances thereon. 30th May, 1849.

Whereas 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 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tutor or guardian to a minor or minors, or of any curator to any person or persons interdicted, shall be and is hereby repealed, and shall be as if it had never been enacted, and shall remain in force only as regards subrogate tutors: and that the thirty-fourth section of the said Ordinance relating to married women of full age shall be wholly and entirely repealed, and shall be void as if it had never been enacted; and that all deeds of sale or conveyance of lands belonging to any such married woman as *propres*,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.

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:

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 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.

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.