

CHAPTER 80.

Of the Registration of Deeds.

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SECTION

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1. The Governor in Council shall appoint a Registrar of Deeds for this colony and its dependencies, to be called the "Registrar of Deeds."

2. The registration office shall be kept in St. John's, at such place as the Governor in Council shall appoint, and shall be provided with fire-proof safes for the safe custody and preservation of all records, books and papers of registry, and all deeds and writings deposited for registration.

3. The said registrar may appoint, as and when occasion may require or he may deem it necessary, with the approval of the Governor in Council, a deputy registrar who may discharge all the duties imposed upon the registrar by this chapter.

4. If the said registrar or deputy registrar shall be guilty of any neglect or fraudulent practice in the performance of the office, the registrar shall be liable for all damages to the party injured, to be recovered with costs of suit in any Court of Record having jurisdiction to the extent of the amount claimed as damages.

5. All deeds, decrees, judgments, conveyances, and other assurances whatsoever, whereby any lands or tenements in this colony and its dependencies, shall be hereafter granted, conveyed, devised, mortgaged, charged or otherwise affected in any manner whatsoever having been proved in manner hereafter provided, shall be registered at the registration office in suitable books of registry, and a double index to such books of registry shall be kept by the registrar, to contain, in case of deeds and writings other than decrees and judgments, the names of the parties thereto, the situation of the property, the character of deed, and the date and conside-

ration; and in cases of decrees and judgments, the dates thereof, the names of the plaintiffs and defendants, the situation of the property, and the Court in which such decrees or judgments were made.

6 When any such deeds, decrees, judgments, conveyances and other assurances, shall be duly proved in manner hereinafter provided, and deposited in the registration office, the registrar shall, upon receiving the fees payable by virtue of this chapter, copy a memorial of the same in the books of registry, and also enter therein copies of all plans and schedules therewith and annexed thereto; and every such memorial shall contain a statement of the year and day of the month on which such deed, decree, judgment, conveyance or other assurance shall bear date, the names and additions (if any) of all and every the parties, as well as the names and additions (if any) of the subscribing witnesses thereto, the signatures of the parties executing the same, the description at length of the lands or tenements conveyed or charged or intended to be conveyed, charged or affected by such deed, decree, judgment, conveyance or other assurance, as the same are herein described, the consideration of every such deed, conveyance or other assurance and the conditions for defeasance; and in cases of decrees and judgments, the certificate under the seal of the Court wherein such decree or judgment was passed, all which particulars shall be entered and recorded in the said books of registry with all convenient despatch in the order of time in which the same shall have been proved and deposited.

7 All such deeds, conveyances and other assurances, aforesaid, executed within this colony, shall be proved by the affidavit of a subscribing witness or any party executing the same, or upon the personal acknowledgment of a party from whom an interest passes, to be made before the said registrar, deputy registrar, a Judge or Commissioner of affidavits of the Supreme Court, or a Justice, who shall in the case of an acknowledgment, sign a certificate of such acknowledgment on such deed, conveyance or other assurance, or on a paper annexed thereto, declaring such acknowledgment and the date thereof, and such certificate and affidavit shall be registered.

8 All such deeds, conveyances and other assurances, aforesaid, executed out of this colony may (if the party or witnesses be in the colony at the time of proof) be proved in the manner prescribed in the foregoing section, and if such be not the case they shall be proved in the manner prescribed in the preceding section before a Commissioner of the Supreme Court, a Judge of a Court of Record, the Mayor or Chief Magistrate of any city or town, a Justice, a British Ambassador, Consul Vice-Consul or Consular-Agent, and the attestation or acknowledgment, with the date thereof, shall, when made before a Judge of a Court of Record, a Mayor of any city or town, be certified under the seal of such Court, city or town, and when made before a Justice, a British Ambassador, Consul, Vice-Consul or Consular Agent, the official character of such Justice, British Ambassador, Consul, Vice-Consul or Consular Agent, shall be certified

under the hand of a Notary Public; and such attestation, certificate and affidavit shall also be registered.

9 All such decrees and judgments aforesaid, shall be proved by a copy under the seal of the Courts, and certified by the clerk thereof.

10. When all the subscribing witnesses to the execution of any such deed, conveyance, or other assurance, aforesaid, and all the parties thereto shall be dead; or when the deed, conveyance or other assurance, having been executed in this colony, the witnesses to the same and the parties thereto shall be absent therefrom, the registrar shall register such deed, conveyance or other assurance, upon sufficient proof upon oath of such death, or absence, of the handwriting of any of the subscribing witnesses thereto, or of the party or parties executing the same from whom some interest shall pass, such proof to be made before the registrar, deputy registrar, or a Judge of the Supreme Court, a Commissioner of affidavits, or a Justice; and the affidavit by which such proof is made shall be registered.

11. When any such deed, conveyance or other assurance, shall be executed under a power of attorney, the power may be registered, upon being duly proved in manner herein provided for the proof of deeds; and no registry of a deed so executed shall be valid unless such power be registered within six months after the registry of such deed, or unless a deed duly proved in manner aforesaid, subsequently confirming the execution of the first deed, conveyance or other assurance, be registered within that period.

12. The registrar shall endorse and sign upon every such deed, decree, judgment, conveyance or other assurance, a certificate in which shall be expressed the day and time when the same was actually deposited for registration, and the volume and page in which the registry thereof is entered, and every certificate so endorsed and signed shall be taken and allowed as evidence of the time when the same was deposited and of the registry thereof.

13. Every deed, conveyance and other assurance, aforesaid, shall be held to be duly registered from the time it shall have been duly deposited in manner aforesaid.

14. All such deeds, conveyances or other assurances, affecting any lands or tenements in this colony made after the twenty-seventh day of March, Anno Domini eighteen hundred and sixty-two, and not duly proved and registered, and every mortgage by deposit of deeds without writing, shall be judged fraudulent and void, both at law and in equity, as against any subsequent purchaser or mortgagee for valuable consideration, who shall first register his deed, conveyance or mortgage of such lands or tenements, or against any trustee of an insolvent estate, or any assignee or trustee under a conveyance for the benefit of creditors, or against any creditor who shall have actually seized or levied under attachment or

execution: Provided that such attachment, with a description of the property attached, shall be entered by the sheriff in his office books immediately after such attachment shall be executed and duly returned with the writ.

15. No mortgage affecting any such lands or tenements shall have any priority by reason of being held by or vested in the same person with another mortgage of prior date and registry.

16. The registrar shall not be compelled to copy in full the release or transfer of a mortgage of any lands or tenements, but he shall register a memorial of such release or transfer to contain the names of the parties and the subscribing witness thereto, the date thereof and the consideration therefor, and also shall enter a reference to the volume and the page of the registry of such mortgage, and on such page shall make a marginal note of such release or transfer.

17. The process of subpoena may be issued out of the Supreme Court as in ordinary cases, with the necessary variation in form, to compel the attendance of any witnesses or parties to any such deed, conveyance or other assurance aforesaid, or the production thereof for proof, that the same may be registered; and such Court or Judge thereof shall have power to punish any disobedience to such subpoena by process of contempt; but no witness or party shall be compelled to produce, under such subpoena, any deed, conveyance or other assurance, which he would not be compelled to produce on a trial in a Court of Justice; and every such witness or party shall be entitled to be paid the customary allowance to a witness.

18. When any such deed, conveyance or other assurance shall be executed out of this colony and duly proved in manner hereinbefore provided, the registrar shall register such deed, conveyance or other assurance, and the certificate of proof upon the production to him of a copy thereof, authenticated by a certificate under the hand and seal of a Commissioner of the Supreme Court, a Judge of a Court of Record, Chief Magistrate, Mayor of any city or town, British Ambassador, Consul or Vice-Consul, at or near the place where the parties executing the same, or a subscribing witness thereto, may reside; and the registrar shall also register such last certificate, 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.

19. Any person who shall hold any deed, will, conveyance or other assurance, affecting any lands or tenements in this colony, executed before the fire in St. John's on the ninth day of June, Anno Domini eighteen hundred and forty-six, whereby several volumes of the registry of deeds of the Central District were destroyed and which had been duly registered in any of the volumes so destroyed, may present such deed, will, conveyance or other assurance to the registrar of deeds who shall register a memorial thereof free of charge.

20. Nothing in this chapter contained shall extend to leases at a rack rent.

21. Where any will is proved and filed with the registrar of probates, a certified copy thereof under his hand and seal (if any) of the Probate Court may be registered in the registration office without further proof.

22. All bills of sale, conveyances and mortgages of personal chattels in this colony, being deeds of gift, or wherein the *bona fide* consideration thereof shall exceed the sum of Four hundred dollars, and where the actual possession of such chattels shall continue in the grantor or mortgagor, shall be registered upon payment of fees and proof and deposit, as herein-before provided, and all such bills of sale, conveyances or mortgages not registered, shall be adjudged fraudulent and void, as against a subsequent purchaser or mortgagee for valuable consideration, who shall first register his bill of sale, conveyance or mortgage, and also as against any subsequent and actual attachment or levy under process of any of the Courts of the Island upon such personal chattels, and also as against a trustee of an insolvent estate, or any assignee or trustee under a conveyance for the benefit of creditors.

23. All wills of which probate or administration *cum testamento annexo* shall hereafter be granted in this colony, shall be copied by the said registrar into a book, to be kept in the registry office as and for the purpose of a registry of wills, and there shall also be entered into the said book at the end of every will a memorandum setting forth the following particulars, viz., the date upon which, the Court or Judge by whom, and the person upon whose petition probate or administration *cum testamento annexo* was granted, and the sworn value of the estate: and a suitable index of such book shall be kept. In the event of the loss of any original will or the probate thereof, the said registry or a certified copy thereof, shall be received as evidence of the contents of such will and of the due execution thereof, and of the facts set forth in the said memorandum in all cases in which the original will or the said facts would be receivable in evidence.

24. The registrar of deeds shall be entitled to receive the following fees from parties depositing documents for registration:—

For registering all deeds, decrees, judgments, bills of sale, conveyances, mortgages and the certificates thereto, required to be registered, when the actual value of the property passing thereby shall not exceed Four hundred dollars... \$2 00

Where such value shall exceed Four hundred dollars and be under Two thousand dollars, Two dollars for the first Four hundred dollars, and Twenty-five cents for every additional One hundred dollars.

Where the value shall exceed Two thousand dollars, the sum of Twenty cents for every additional One hundred dollars.

For registering every release or transfer of mortgage \$1 00

For every search. Every search to consist of the examination
of any number of volumes or different parts of the same
volume or volumes, and of the indexes thereto in relation
to the same property or subject matter at the same time
or visit 0 25

For every certificate 0 50

For registering a power of attorney 2 50

25. The registrar of deeds shall render to the Governor in Council, half yearly, for the information of the Legislature, accounts of all fees received by him, which fees shall be paid in half-yearly, to the Receiver General.