

such order to be in writing and to state particulars. And any other Justice of the Peace may, upon the production of such order, discharge the accused person.

accused, the nature of the charge, the time and place at which such party accused is required to appear, the amount for which such party accused, and his surety or sureties if any, are required to enter into such recognizance, and any terms which such Justice may impose in respect of such recognizance; and it shall be lawful for any other Justice of the Peace for the same County or District, upon production of such order, to take such recognizance in the manner and upon the terms and conditions set forth in such order, and thereupon the party accused shall be discharged from custody.

No objection to be allowed to complaints, warrants, &c., on account of any defect or variance, but Justice may adjourn the hearing.

9. No objection shall be allowed to any information or complaint summons or warrant for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced in support of the prosecution charge or complaint before the Justice or Justices who shall take the examination of the witnesses in that behalf; but if any such variance shall appear to the Justice or Justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such Justice or Justices at the request of the party so charged, to adjourn the hearing to some future day, and in the meantime to remand the party so charged, or to suffer him to be at large upon his recognizance with or without a surety or sureties in manner hereinbefore mentioned.

Passed in Council this nineteenth day of December in the year of Our Lord one thousand eight hundred and sixty-one.

R. LECHMERE GUPPY,  
*Clerk of Council.*

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No. 3.—1862.

*1st April.*

AN ORDINANCE for the protection of Purchasers and Mortgagees.

ROB. W. KEATE.

**W**HEREAS it is expedient that the law for the protection of purchasers and mortgagees of lands in

this Colony should be amended: Be it enacted by His Excellency the Governor, by and with the advice and consent of the Council of Government, as follows:—

1. Every deed whereby any lands in this Island may be in any way affected at law or in equity shall be registered in the office of the Registrar General of this Island, and every such deed shall be good and effectual both at law and in equity according to the priority of time of registering such deed according to the right, title and interest of the person conveying such lands against every other deed, conveyance or disposition of the same lands, or any part thereof. Deeds respecting land to be registered and to take effect according to priority of registry.
2. Every such deed that shall not be duly registered shall be adjudged fraudulent and void as to the lands affected by such deed against any subsequent purchaser or mortgagee without notice of the same lands or any part thereof whose conveyance shall be first registered. Deeds not duly registered to be void.
3. Every will whereby any lands in this Island shall be in any way affected shall be registered in the office of the Registrar General, and every such will which shall not be duly registered shall be adjudged fraudulent and void as to the lands affected by such will against any subsequent purchaser or mortgagee without notice of the same lands or any part thereof whose conveyance shall be first registered. Wills affecting lands to be duly registered.
4. Provided always that where any will shall be deposited in any Court of Probate or other competent Court or in any public office out of this Island so that it shall not be possible to register the original will under this Ordinance the registration of an official copy of such will under the seal, if any, of the Court in which, or certified by the officer in whose custody the original will shall be deposited shall be a sufficient registration of such will within the meaning of this Ordinance. Copies of Wills deposited in Courts or Offices out of the Island may be registered in place of the originals.
5. Provided also that the registration of any will or of such official copy thereof, as hereinbefore mentioned, within six calendar months from the day of the death of the testator where such testator shall die in this Island, or within two years from the day of the death of such testator where such testator shall die out of this Island shall be a sufficient registration of such will Limitation of time for registration.

within the meaning and for the purposes of this Ordinance.

Proviso in case of concealment, &c., of a Will.

6. Where, by reason of the concealment, suppression or contesting of any will, or by reason of any other impediment, it shall not be possible to register the will within the respective times hereinbefore limited, a memorial, verified by affidavit or solemn declaration before any Judge of any superior Court of Record in Great Britain or Ireland, or before any Judge of the Supreme Civil Court of this Island, and setting forth the fact of such will having been made, and the supposed purport and effect thereof, and also the fact of such concealment, suppression, contestation or other impediment, being registered within the respective times hereinbefore limited, shall be a sufficient registration of the will within the meaning of this Ordinance; but in any such case no such will or memorial shall be of any effect as against any purchaser or mortgagee without notice unless the will be actually registered within three years from the death of the testator.

Registry of memorials of wills.

7. Every such memorial shall be registered by the Registrar General among wills and entered in the index of wills as if the same were a will.

Certain parts of Ordinance No. 14 of 1844 repealed.

8. So much of the Ordinance passed in Council on the second day of September, in the year one thousand eight hundred and forty-four, entitled "An Ordinance to vest in the husband on marriage the same interest in the real and personal Estate of the wife as he would take according to the Law of England, to take away the right of Married Women to Ganancias and to make other provisions for Widows in lieu thereof," as requires that any settlement in order to be valid must be registered before the marriage, or made in pursuance of articles registered before the marriage, so far as regards all settlements made in consideration of any marriage to be celebrated after the commencement of this Ordinance, shall be and the same is hereby repealed; and all settlements and articles for a settlement which may be made in consideration of any marriage to be celebrated after the passing of this Ordinance, and which shall be registered under this Ordinance, shall take effect according to the priority of time of registering the same, notwith-

standing that such settlement or articles shall not have been registered before the celebration of such marriage.

9. Every judgment already registered or hereafter to be registered in the manner directed by the Ordinance passed in Council on the first day of August, in the year one thousand eight hundred and forty-five, entitled "An Ordinance for improving the remedies of Creditors against the property of their Debtors," shall entitle the creditor, by virtue of such judgment, decree, order or rule, to the same remedies in equity against the hereditaments charged by virtue of the said Ordinance, or any part thereof, as he would be entitled to in case the person against whom such judgment, decree, order or rule shall have been so entered up had power to charge the same hereditaments and had by writing under his hand agreed to charge the same with the amount of such judgment debt or the amount made payable by such decree, order or rule and interest thereon.

Registered judgments to entitle the creditor to remedies in Equity against hereditaments charged under Ordinance No. 19 of 1845.

10. Where, by the said Ordinance of the first day of August aforesaid, re-registry of judgments, decrees, orders or rules is required within such period of three years, as is therein mentioned, in order to bind purchasers, mortgagees and creditors, or to secure such preference as is therein mentioned, it shall be deemed sufficient to bind such purchasers, mortgagees and creditors, and to secure such preference as aforesaid, if such memorandum or minute as was required in the first instance is again left with the Registrar General within three years before the execution of the conveyance, settlement, mortgage, lease, or other deed or instrument vesting or transferring the legal or equitable right, title, estate or interest in or to any such purchaser or mortgagee for valuable consideration, or as to creditors, within three years before the right of such creditors accrued, or as to heirs, executors or administrators, within three years before the death of the testator or intestate, although more than three years shall have expired by effluxion of time since the last previous registration before such last mentioned memorandum or minute was left, and so *toti s quoties* upon every re-registry.

Where by Ordinance No. 19 of 1845 re-registry of judgments, decrees, &c., is required, they must be registered, if as to purchasers or mortgagees within three years before their right accrued; or if as to heirs, within three years before the death of the testator or intestate.

11. No such judgment, decree, order or rule shall affect any lands, tenements or hereditaments at law or

No judgment, &c. to affect

any property until the memorandum relative thereto is left with the Registrar General.

in equity as to purchasers, mortgagees or creditors unless and until such memorandum or minute as aforesaid shall have been left with the Registrar General, any notice of such judgment, decree, order or rule to any such purchaser, mortgagee or creditor in anywise notwithstanding.

Extinguished or barred judgments not to be revived by this Ordinance.

12. Nothing in the said Ordinance of the first day of August, one thousand eight hundred and forty-five, or in this Ordinance contained, shall extend to revive or restore any judgment which shall be extinguished or barred, or to affect or prejudice any such judgment, or any decree, order or rule, as between the parties thereto or their representatives, or those claiming as volunteers under them.

No "lis pendens" to be binding without notice until a minute containing certain particulars shall be left with the Registrar General.

13. No *lis pendens* shall bind a purchaser or mortgagee without express notice thereof, unless and until a memorandum or minute containing the name and the usual or last known place of abode, and the title, trade or profession of the person whose estate is intended to be affected thereby, and the title of the cause or information, and the day when the bill or information was filed, shall be left with the Registrar General of the said Island, who shall forthwith enter the same particulars, in a book to be kept by such Registrar General, in alphabetical order by the name of the person whose estate is intended to be affected by such *lis pendens*; and the provisions hereinbefore and in the said Ordinance of the first day of August contained in regard to the re-entering of judgments every three years shall extend to every case of *lis pendens* which shall be registered under the provisions of this Ordinance.

Definition of "Wills and Lands."

14. Throughout this Ordinance the word "Will" shall extend to a testament and a codicil and to an appointment by will or by writing in the nature of a will in exercise of a power, and to all acts of trust, disposition and settlement duly recorded in the Books of the Lords of Session in Scotland; the word "Lands" shall extend to messuages, tenements and hereditaments, corporeal or incorporeal of every tenure or description, whatever may be the estate or interest therein; and every word importing the masculine

gender only shall extend and be applied to a female as well as a male.

Passed in Council this first day of April, in the year of Our Lord one thousand eight hundred and sixty-two.

R. LECHMERE GUPPY,  
*Clerk of Council.*

## No. 4.—1862.

*1st April.*

AN ORDINANCE to amend the Law relating to the Conveyance and Transfer of Real and Personal Property, vested in Mortgagees and Trustees.

ROB. W. KEATE.

**W**HEREAS it is expedient to amend the Law relating to the Conveyance and Transfer of Real and Personal Property vested in Mortgagees and Trustees and to assimilate the same to the Law of England: Be it enacted by His Excellency the Governor by and with the advice and consent of the Council of Government as follows:

The several words hereinafter named are herein used and applied in the manner following respectively (that is to say):

The word "Lands" shall extend to and include Definitions. messuages, tenements and hereditaments corporeal and incorporeal of every tenure or description, whatever may be the estate or interest therein.

The word "Stock" shall mean any Debentures issued or to be issued by or under the authority of the Government of this Colony, and any fund, annuity or security transferable in books kept by any Company or Society established or to be established or transferable by deed alone or by deed accompanied by other formalities and any share or interest therein respectively.