TRUST DEEDS.

The following suggestions will, it is hoped, be found useful in the preparation of Trust Deeds to secure issues of Bonds or Debentures. They cannot be expected to suit every case, but will serve as a guide to the draftsman, who can alter them to meet the requirements of the particular Deed.

With respect to property situated in the Province of Quebec, it is important that those interested in Bonds thus secured should understand that, in the Province of Quebec, property can only be charged by way of hypothec, which differs from the form of mortgage, prevailing under the common law, in several important particulars.

> "Hypothec" is defined by the Civil Code (2016) to be "a real right upon immoveables made liable for the fulfilment of an obligation, in virtue of which the creditor may cause them to be sold in the hands of whomsoever they may be, and have a preference upon the proceeds of the sale in order of date as fixed by this code."

Thus, the legal title to the property remains in the mortgagor.

The mortgagee is not entitled to foreclose the mortgage and take possession, divesting the mortgagor, but must sue upon the principal obligation, obtain judgment, bring the property to judicial sale, and then rank upon the proceeds, which are distributed, according to privilege, by a judgment of distribution.