

CAP. III.—OF SECRET INCUMBRANCES ON LANDS—AND CONFIRMATION OF TITLES.

TO secure property and prevent the disturbances and evictions from secret incumbrances unknown to the purchasers of such property; to enable purchasers of real property to make such purchases with confidence and obtain a valid discharge after paying the price thereof; and on the other hand to enable the vendors of such immoveables, within a reasonable time, to receive the purchase money without danger to the purchaser:—

1. All proprietors of immoveables, whether the same be immoveables real or immoveables by fiction of law, having acquired the same by purchase, exchange, licitation, or other title of a nature to transfer property, who are desirous of discharging such immoveables from any hypothecs wherewith they have been incumbered immediately previous to and at the time they were purchased or acquired by such persons, may obtain a judgment of confirmation of their purchase or acquisition in the manner hereinafter mentioned; which said judgment of confirmation shall have the effect of discharging the privileges and hypothecs wherewith such immoveables were incumbered previous to and at the time of such purchase or acquisition as aforesaid, in respect of all, each and every of the creditors of the vendors or assignors, and of their predecessors, neglecting to make their opposition in the form and within the time hereinafter prescribed; and the purchasers or proprietors of such immoveables obtaining such judgment of confirmation, shall be and remain incommutable proprietors thereof, without being held or bound for the debts of the preceding proprietors of the same, in any manner whatsoever; but such judgment of confirmation shall not have the effect of giving to such purchasers or proprietors, in relation to the property, any other or greater real rights (*droits réels fonciers*,) or servitude than their vendors had; and the sole effect of such judgment of confirmation shall be the discharging of privileges and hypothecs, only. (9 G. 4, c. 20, s. 1.)

2. The purchaser or proprietor, before he shall be entitled to demand such judgment of confirmation, shall lodge at the office of the prothonotary of the Superior Court for the district wherein such immoveables lie, the title deed of purchase or acquisition thereof; and thereupon public notice thereof, under the signature of the prothonotary, shall be given three several times in the course of four months, in the *Canada Gazette* stating the date of the deed, the names and descriptions of the parties thereto, its operation or general character, a description of the immoveable, and who has been in the actual possession thereof during the three years next before such notification, and the day on which such judgment of confirmation will be applied for, thereby calling on all persons who may have, or claim to have, any privilege or hypothec under any title or by any means whatsoever, in or upon the immoveables in respect of which such judgment of confirmation is to be applied for, to signify in writing their oppositions, and file the same in the office of such prothonotary, eight days at the least before the day fixed for such application; and such notification shall be in the form or to the effect expressed in the schedule hereunto annexed, but with any additions or alterations which the nature of the case may require, and shall also be publicly and audibly read at the church door of the parish, township or place in which the immoveable is situate, at the issue or immediately after divine service in the forenoon, on the four Sundays next before the day on which such application is to be made as aforesaid; and such notice shall also be posted up at the door of such church on the first Sunday on which the same shall be so read; and where there is no church or other place of divine worship, such notice shall be so given at the most public place or places in the parish, township or place in which the immoveables are situate. (9 G. 4, c. 20, s. 2.)

3. In the case of immoveables by fiction of law, such proceedings and judgment of confirmation shall be obtained in the Superior Court sitting in term for the district where the vendor or assignor of such immoveables had his domicile for three years next preceding the sale to be so confirmed, or if his domicile during that period has been in more districts than one, then in that district in which he is actually domiciliated, giving the like public notice in the several districts where he may have been so domiciliated during any part of the said three years. (9 G. 4, c. 20, s. 5.)

4. When the deed of purchase, exchange or other title of a nature to transfer property, includes immoveables real, or ground rents (*rentes foncières*) situate within the limits of different districts, the judgment of confirmation shall be obtained in such districts, respectively, in default of which the purchasers or proprietors shall be liable to the hypothecs of the vendor