

should be held to partition the same according to the "Old Laws of the Province," (that is to say, as if such lands had been held by the tenure of *franc alev roturier* being that known to the said Old Laws which is most analogous to free and common soccage), unless the said heirs should have agreed among themselves upon a different partition; And whereas the tenor of the said section and of the preamble and other parts of the said Act, shew that the Legislature held the said Old Laws to be those most consistent with the feelings and customs of the people of Lower Canada, and that they ought with the exception of such portions as relate to Seigniorial or feudal rights or dues, to apply thereafter to lands held in free and common soccage, yet by some omission or error this is not formally enacted: Therefore, it is hereby provided, that where the proprietor of any land held in free and common soccage in Lower Canada, shall have died intestate as to such lands, between the passing of the Act last above cited and the passing of this Act, the husband, widow and heirs of such proprietor, shall have respectively the same rights in respect of such lands as if they had been held in *franc alev roturier*, unless they shall have agreed upon, assented to or confirmed a different disposition or partition thereof, or shall have acquiesced therein during one year from the death of such proprietor, by having allowed the same or any possession or act founded thereon, to remain unquestioned by them in any competent Court during that time; And this section shall apply to and bind minors, absentees and married women, and as well the heirs and legal representatives of or persons claiming through the parties who shall have agreed upon, assented to, confirmed or acquiesced in such disposition or partition, as such parties themselves; Provided always, that whenever any person shall have *bonâ fide* purchased or obtained any hypothec or charge upon any such lands for a valuable consideration from any person who claimed to be and was entitled thereto as heir of the former owner so dying intestate, either under the English Law referred to in the Act aforesaid, or under the Laws of Lower Canada applicable to lands held in *franc alev roturier*, and shall have registered the deed creating such charge, or operating such conveyance, before the registration of any sale, conveyance or incumbrance of such lands by any other person claiming to be such heir, and before the passing of this Act, no person being at the date of such deed in adverse possession of the lands as such heir or as claiming through any such heir, or having questioned the title of the vendor or grantor of the charge in any suit pending or decided in favor of the adverse claimant at the date of such deed,—then as regards the conveyance, sale or charge operated or created by such deed, the grantor or vendor therein mentioned shall be held to have been at the date thereof the person entitled to inherit the said lands from the proprietor so dying intestate as regards them.

How lands in free and common soccage shall be divided when the owner has died intestate after the passing of 9 G. 4, c. 77, and before the passing of this Act.

Proviso: in favor of *bonâ fide* purchasers, &c.