

An Act to prevent Claims secured by Special Privilege or Hypothec on Real Property in Lower Canada, duly registered, from being lost by any subsequent Judicial Sale or Confirmation of Title.

WHEREAS the Registry Laws are intended for the protection of those who comply with their requirements, and since the establishment of Registry Offices in Lower Canada, the hypothecs specially charged upon any real property and duly registered, can be readily ascertained, and it is unjust that parties who have lent money, or allowed credit for the price of property sold, on the security of such hypothecs, should be exposed to lose the same if they fail formally to oppose proceedings of which they receive no personal notice and of which they may be wholly unaware; and this risk of loss discourages the introduction of capital into Lower Canada, and the loan thereof for the improvement of real property, and obstructs the sale of land on credit; And whereas the reasons which formerly rendered such risk unavoidable no longer exist: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. It shall not hereafter be necessary that any opposition be filed in any case of application for a judgment of confirmation, under the Act of Lower Canada, ninth George the Fourth, chapter twenty, for the more effectual extinction of secret incumbrances of lands, in order to preserve any privilege or hypothec for a sum of money specified and upon real property described in the instrument or memorial registered for preserving such privilege, or any conventional hypothec duly constituted under the twenty-eighth section of the Lower Canada Registry Ordinance, fourth Victoria chapter thirty, for securing any sum of money specified in the instrument creating such hypothec, on real property therein specially described, if such privilege or hypothec be duly registered under the said Ordinance and the Acts amending it, before the *first* publication of the notice that such application will be made: and unless special proceedings under the next following section of this Act are taken in such case, the judgment of confirmation shall not discharge any such privilege or hypothec as aforesaid, but shall be obtained subject thereto.

Preamble.

Special privileges and hypothecs duly registered not to be discharged by confirmation of title, unless special proceedings are taken under this Act.

II. No privilege or conventional hypothec for securing any life-rent (*rente viagère*) or any payment depending on a contingency, shall be within the meaning of the first section of this

Hypothecs for payments depending on