

lands or other immoveable property, holden, in free and common soccage, within Lower Canada, and duly made and executed upon or after the said First day of September, one thousand eight hundred and thirty-one, either upon and under such rules and restrictions as are by the law of England established and in force in reference to such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, devises, or other conveyances, or by deed or instrument in writing, duly made and executed by and before two notaries public, or by and before one notary and two witnesses, according to the laws and usages of Lower Canada, shall be equally valid in law. (9 G. 4, c. 77, s. 2.)

5. All mortgages and *hypothèques*, and all privileged claims of *bailleur de fonds* created before the day last aforesaid, upon any lands or other immoveable property holden in free and common soccage in Lower Canada, and which were so made and created according to the forms, laws and usages of Lower Canada, affecting other lands not holden in free and common soccage, shall be held valid in law to all intents. (9 G. 4 c. 77, s. 3.)

6. All mortgages and *hypothèques*, and all privileged claims, created upon or after the day last aforesaid, upon any land or other immoveable property holden in free and common soccage, according to the forms, laws and usages of Lower Canada, shall be valid to all intents, provided that the lands so mortgaged or hypothecated, or upon which such privileged claim is so intended to be reserved, are specially set forth and described in the instrument creating or reserving the same, and not otherwise. (9 G. 4, c. 77, s. 4.)

7. Nothing in this Act shall be so construed as to prejudice in any manner whatsoever the rights of any persons by whom any real property has been sold, (*bailleur de fonds*) who shall always be allowed to demand and exercise their rights of preference of *hypothèque* and privileged claim upon the moneys which shall form the consideration of any sale or transfer of any land or hereditament, although no stipulation to that effect, or express mention of such right, be made in the deed of sale or transfer of such land or hereditament. (9 G. 4, c. 77, s. 5.)

8. In all cases where any proprietor of land granted or held in free and common soccage in Lower Canada, died before the said First day of September, one thousand eight hundred and thirty-one, without having partitioned the same, either by last will and testament or otherwise, the heirs of such proprietor shall be held to partition such land according to the old laws of Lower Canada, (that is to say, as if such land had been held by the tenure of *franc alevu 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. (9 G. 4, c. 77, s. 6.)

9. In all cases where the proprietor of any land held in free and common soccage in Lower Canada, died intestate as to such lands, between the Thirty-first day of August, one thousand eight hundred and thirty-one, and the tenth day of June, one thousand eight hundred and fifty-seven, 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 alevu roturier*,—unless they have agreed upon, assented to or confirmed a different disposition or partition thereof, or have acquiesced therein during one year and one day 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 has *bonâ fide* purchased or obtained any hypothec or charge upon any such land 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 alevu roturier*, and has 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 day last aforesaid, or within six months next after the said day, but before registration by such other person, 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 deci-