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No. 30.

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3rd Session, 6th Parliament, 23 Victoria, 1860.

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BILL.

An Act for the better securing and protection of the rights of *bailleurs de fonds* in cases of exchange.

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Received and Read, first time, Thursday,  
8th March, 1860.

Second reading, Monday, 12th March, 1860.

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HON. MR. SICOTTE.

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QUEBEC :

PRINTED BY THOMPSON & CO., ST. UNSOLE STREET.

An Act for the better securing and protection of the rights of bailleurs de fonds in cases of exchange.

Her Majesty &c., enacts as follows :—

**I**N Exchanges of immoveables a hypothec arises in favor of each party exchanging, for a sum equal to the value of the immoveable, from the moment of the registration of the contract of Exchange, effected within the delay prescribed as regards contracts of sale, to secure the execution of the guarantee stipulated by the contracting parties, and resulting from the exchange, without it being, or having been necessary to stipulate such hypothec, as regards such guarantee, for a sum fixed and determined.

In exchanges of immoveables a hypothec arises in favor of the parties, &c., to secure its complete execution.

**II.** The value of the immoveable shall be determined by an *expertise*, to be ordered by the Judge on the application of any party interested in ascertaining such value, after notice previously given as prescribed by the Judge, to all the hypothecary creditors who have registered their claims.

The value of the immoveable to be determined by *expertise*.

**III.** Any party exchanging, who is evicted from the immoveable which he shall have received in exchange, or from any part thereof, may elect to claim damages, or to demand the return of the immoveable he has given in exchange, and any difference of value (*soulte*) that he may have paid.

Right of party evicted from the property received in exchange.

**IV.** When one of the parties to the exchange has received the thing given to him in exchange, and he afterwards proves that the other contracting party was not the owner thereof, the latter may be compelled to restore the thing which he has received.

In case the exchanged was not the property of the person exchanging.