
2nd Session, 3rd Parliament, 12 Victoria, 1849.

BILL.

An Act for removing doubts as to the legal effect of the Act of the Legislature of Lower Canada, passed in ninth year of the Reign of His late Majesty, King George the Fourth and intituled, "*An Act for rendering valid conveyances of lands and other immoveable property held in free and common soccage within the Province of Lower Canada, and for other purposes therein mentioned,*" and for the greater uniformity of the Law relative to real property in Lower Canada.

Received and read a first time, Monday, 22nd
January, 1849.

Second reading, Tuesday, 30th January, 1849.

MR. SOL. GEN. DRUMMOND.

BILL.

An Act for removing doubts as to the legal effect of the Act of the Legislature of Lower Canada, passed in the ninth year of the Reign of His late Majesty King George the Fourth, and intituled, *An Act for rendering valid conveyances of lands and other immovable property held in free and common soccage within the Province of Lower Canada, and for other purposes therein mentioned*, and for the greater uniformity of the Law relative to real property in Lower Canada.

WHEREAS the Act passed by the Legislative Council and Assembly of the late Province of Lower Canada, in the ninth year of the Reign of His late Majesty King George the Fourth, and intituled, *An Act for rendering valid conveyances of lands and other immovable property held in free and common soccage within the Province of Lower Canada, and for other purposes therein mentioned*, was presented for the Royal Assent on the fourteenth day of March, in the year of Our Lord one thousand eight hundred and twenty-nine, and was then reserved by the Administrator of the Government of the said Province for the signification of His Majesty's pleasure thereon; And whereas the said Act was assented to by His late Majesty, King William the Fourth, on the eleventh day of May, in the year of Our Lord, one thousand eight hundred and thirty-one, and the Royal Assent thereto was signified by proclamation in the said Province, on the first day of September, in the year last aforesaid, so that more than two years had elapsed between the presentation of the said Act for the Royal Assent and the signification of the Royal Assent as aforesaid;

Preamble

Act of L. C. 9
Geo 4 c 77
cited

Imp Act 31 G
3 c. 31, cited

Imp Act 1 W
4 c. 20 cited

And whereas by the Act passed in the Parliament of Great Britain in the thirty-first year of the Reign of His late Majesty, King George the Third, and intituled, *An Act to repeal certain parts of an Act passed in the* 5
fourteenth year of His Majesty's reign, intituled, "An Act for making more effectual provision for the Government of the Province of Quebec in North America," and to make
further provision for the Government of the 10
said Province, it was among other things in effect enacted, That no bill passed by the said Legislative Council and Assembly of the said Province of Lower Canada, and reserved for the signification of the Royal 15
Pleasure thereon, should have any force or effect within the said Province, unless the Royal Assent thereto should be signified within the said Province, within two years from the day on which such Bill should 20
have been presented for the Royal Assent; And whereas it hath been doubted whether the Act passed by the Parliament of the United Kingdom of Great Britain and Ireland in the first year of the Reign of His 25
late Majesty King William the fourth, and intituled, *An Act to explain and amend the Laws relating to Lands holden in free and common soccage in the Province of Lower*
Canada, while it removed all doubts as to 30
the power of the Legislature of the said Province to pass an Act containing provisions of the nature of those contained in the Provincial Act herein first above cited, removed also the doubts arising from the 35
lapse of time between the reservation of the said Act and the signification of the Royal Assent as aforesaid, and it is therefore expedient to confirm the said Provincial Act, which hath been generally believed to be in 40
force, and to declare the same to have been in force from the time of the signification of the Royal Assent thereto; and also to remedy an omission in the said Act, and to ensure greater uniformity in the Law rela- 45
tive to real property in Lower Canada: Be it therefore enacted, &c.

And it is hereby enacted by the authority of the same, That the said Act of the Legislature of Lower Canada, passed in the ninth year of the Reign of His late Majesty, King George the Fourth, and intituled, *An Act for rendering valid conveyances of Lands and other immovable property held in free and common soccage within the Province of Lower Canada, and for other purposes therein mentioned*, shall be and is hereby confirmed and declared to be in force within that part of this Province which formerly constituted the said Province of Lower Canada, (hereinafter called Lower Canada,) and shall be deemed to have been in force therein as law, since the first day of September, in the year of Our Lord one thousand eight hundred and thirty-one, being the day on which the Royal Assent to the said Provincial Act was so signified by proclamation as aforesaid, and which shall be held to be the day of the passing thereof.

The said Act of L. C. 9 G. 4 c. 77, declared to have been in force since 1st Sept. 1831

II. And be it enacted, That when any proprietor of land or immovable property granted or held in free and common soccage in Lower Canada, shall have died since the passing of the Provincial Act hereinbefore cited and confirmed, and either before or after the passing of this Act, without having partitioned the same, either by last will or testament or otherwise, the heirs of such proprietor shall be held to partition such land or immovable property according to the old Laws of Lower Canada, unless the said heirs should or shall have agreed among themselves on a different partition: Provided always, that nothing in this section shall be construed to invalidate any right acquired by prescription, or acquired before the passing of this Act by any heir or other party, under the judgment of any competent Court, or acquired *bond fide*, for a valuable consideration, and before the passing of this Act, by any third party, from or through any heir from or through whom

How free and common soccage lands of persons dying intestate after 1st Sept 1831, shall be partitioned among the heirs

Proviso rights of third parties &c saved

without this section such right could have been validly acquired, saving however in the case last mentioned, the recourse of the other heirs against such heir.

What laws
have applied
and shall apply
to lands in free
and common
socage in
i C

III. And be it declared and enacted, That 5
except in so far as it is otherwise expressly
provided by the said Act or by this Act, or
by some other Act in force in Lower Canada,
the rights of all parties in, to or respecting,
or arising out of, or affecting lands or immo- 10
vable property held in free and common
socage in that part of this Province, and all
matters and incidents relative to such lands
or property, are and shall be governed by the
same laws and rules as if such lands or pro- 15
perty were held in *franc aleu roturier*, and
shall be deemed to have been so governed at
any time heretofore, except in so far as it
may have been otherwise expressly provided
by some Act or Law in force at such time in 20
Lower Canada.