

1960

An Act respecting Real Property

Ontario

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R.S.O. 1897, CHAPTER 330

An Act respecting Real Property

(Quia Emptores, etc.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

* * * * *

2. Forasmuch as purchasers of lands and tenements of the fees of great men and other lords, have many times heretofore entered into their fees, to the prejudice of the lords to whom the freeholders of such great men have sold their lands and tenements to be holden in fee of their feoffers, and not of the chief lords of the fees, whereby the same chief lords have many times lost their escheats, marriages, and wardships of lands and tenements belonging to their fees; which thing seemed very hard and extreme unto those lords and other great men, and moreover in this case manifest disheritance: It is therefore provided, and ordained, that from henceforth it shall be lawful to every freeman to sell at his own pleasure his lands and tenements, or part of them, so that the feoffee shall hold the same lands or tenements of the chief lord of the same fee, by such service, and customs as his feoffer held before. 18 Edw. I, c. 1 (commonly called "The Statute *Quia Emptores*").

Freeholders may sell their lands so that the feoffee do hold of the chief lord.

3. And if he sell any part of such lands or tenements to any, the feoffee shall immediately hold it of the chief lord, and shall be forthwith charged with the services, for so much as pertaineth, or ought to pertain to the said chief lord for the same parcel, according to the quantity of the land or tenement so sold: And so in this case the same part of the service shall remain to the lord, to be taken by the hand of the feoffee, for the which he ought to be attendant and answerable to the same chief lord, according to the quantity of the land or tenement sold, for the parcel of the service so sold. 18 Edw. I, c. 2.

Sale of part.

Apportionment of services.

4. And it is to be understood, that by the said sales or purchases of lands or tenements, or any parcels of them, such lands or tenements shall in no wise come into mortmain,

Mortmain prohibited.

either in part or in whole, neither by policy nor craft, contrary to the form of the statute made thereupon. And it is to wit, that this and the two preceding sections of this Act extend only to lands holden in fee simple. 18 Edw. I, c. 3.

* * * * *

Warranties
abolished.

11. Lineal and collateral warranties at common law, with all their incidents, are abolished; but the liability of the executors, or administrators, or devisees, of any person who shall have made any covenant, is unaffected by this section. (*See 4 and 5 Anne, c. 3 (or c. 16 in Ruffhead's Ed.), s. 21.*) 2 Edw. VII, c. 1, s. 7.

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