

creditors knowing about the sale, and this sale can free the properties of mortgages, hypothecs, privileges only if they are sold by the sheriff. By these amendments, however, we wish to authorize the trustee to proceed himself with the sale without going to the sheriff; but this he will do only after authority has been given to him by the judge, and by the inspectors, and after notice has been given to the creditors. He will replace the sheriff where such consent or authorization has been given to him.

Sir HENRY DRAYTON: I suppose the complaint really is that notice was not given in the past.

Sir LOMER GOUIN: Under the present law the trustee could not discharge the property; the property had to be sold by the sheriff, and such a procedure is sometimes very expensive. It is in the interest of the creditors, the trustee and the debtor, that the sale should take place at auction by the trustee. The intention is to save money, to protect the rights of the creditors and to protect the creditors generally.

Sir HENRY DRAYTON: Why cannot you in Quebec make the valid sale that you can make in Ontario under the bankruptcy law?

Sir LOMER GOUIN: It is not the same law.

Sir HENRY DRAYTON: The procedure is under the same bankruptcy law.

Mr. MARTELL: The system of procedure is different.

Sir HENRY DRAYTON: We provide our system of procedure under this legislation.

Mr. MARTELL: My hon. friend knows that we in the English-speaking provinces have a certain form of procedure. The courts and officials of Quebec are accustomed to an absolutely different form of procedure. While I quite agree with my hon. friend, who is a lawyer of many more years' standing than I am, he knows very well that lawyers become acquainted with a certain form of procedure. Quebec has become accustomed to a certain form of procedure, and it wants to carry that out. As I understand the matter, in Quebec they had no authority to discharge the debtor; in Ontario they could do that. In Ontario the property could be sold by the sheriff, and in Nova Scotia and other provinces it could be sold by the trustee and discharge given. I understand this section is intended to apply only to Quebec.

Sir LOMER GOUIN: That is what I am saying. In Ontario, if a property is mortgaged, a sheriff could sell it and discharge the mortgage. It is the same in Quebec.

Sir HENRY DRAYTON: What is the necessity for this change?

Sir LOMER GOUIN: To facilitate the liquidation, to give full title.

Mr. MARTELL: To save costs.

Sir HENRY DRAYTON: Under the law of Quebec, is it suggested that, if the judge says so, the property can be sold without being subject to the mortgage.

Sir LOMER GOUIN: No.

Sir HENRY DRAYTON: Then why do we have this trouble about the judge in this clause?

Sir LOMER GOUIN: The judge cannot discharge the mortgage. We now legislate to this end, that with the permission of the judge, the permission of the inspectors, and notice being given to the creditors, the trustee will have the right to sell and discharge the property, which is something that cannot be done in Ontario.

Mr. BAXTER: I am not going to attempt to discuss this clause because I know simply nothing about the procedure. I do not even know whether the remarks I am going to make pertain to this particular clause or not. Since the House rose I was in conversation with the hon. member for George Etienne Cartier (Mr. Jacobs), and there are some matters that he wishes to speak of that are peculiar to the law of Quebec. They may or may not bear upon this clause. I have no knowledge to say so. I am going to suggest to the minister that, perhaps, he let this clause stand until that hon. member is here, and if what he wants to say bears upon it, he will have an opportunity of discussing it.

Sir LOMER GOUIN: I have seen the hon. member for George Etienne Cartier, and he wishes to speak only as regards the preference of the landlords. As to this, he is perfectly well satisfied, and he made that declaration this afternoon in the House.

Section agreed to.

On section 18—Description of debtor's property.

Sir HENRY DRAYTON: What is the effect of this amendment?