

this action may repose chiefly on your declaratory law. C in such case will be troubled and condemned with costs, and he will go against B, or B against A.

During 59 years, up to this the moment of my writing, the law has *not* been as, or what, you propose to declare. I place in parallel columns your proposed enactment, and the law :

YOUR SECTION XVI.

And for the avoidance of doubts, it is hereby declared and enacted, that no adjudication of any real property by the Sheriff, or in any case of Forced Licitation, *has vested* or shall vest in the *adjudicataire* any greater or better title to such property than was vested in the party or parties upon whom it was seized, or as belonging to whom it was put up for sale in such case of Forced Licitation ; and that no such adjudication *did* or shall remove or discharge any *servitude* to which the property was theretofore subject, and that all *servitudes* in favor of any property so adjudged, *have passed* and shall pass with it and be enjoyed by the *adjudicataire* and his *ayant cause*, nor shall any opposition to preserve any such *servitude* be allowed, and if any be made, it shall be dismissed with costs.

THE LAW.

41 Geo. III, c. 7, § xi. [p. 114, Revised Statutes of 1845.]

And be it enacted, &c., That no opposition to the sale of any immoveable property seized by the Sheriff, by virtue of a writ of execution, whether such opposition be a *fin d'annuller* or a *fin de distraire*, the whole or a part of the property so seized, or *afin de charges*, or *SERVITUDES* in the same, shall be lodged in the hands of the Sheriff, or received by him, except previous to the fifteen days next before the day fixed for the sale and adjudication thereof ; * * * provided that the Sheriff shall have made known, in his publication of the sale of the said immoveable property, that such opposition shall not be received during the fifteen days previous to the sale of the same, as above enacted : Provided, nevertheless, that the person who shall neglect to make such opposition before the fifteen days above mentioned, shall still have the power of converting his right to such opposition to an opposition *afin de conserver* on the proceeds of the sale of the said property, which he may always file within the time fixed for lodging such opposition *afin de conserver*.

— *Guyot. Rep. 3^e Vo. " Servitude."*

The first portion of your section XVI is plausible, and looks reasonable. It seems just, that no purchaser at a Sheriff's sale should get more than the *saisi* had, or land otherwise than as the *saisi* held it. Still, in the case of the *servitude occulte* which I have mentioned, and in several other cases, the purchaser of land, at Sheriff's sales in Lower Canada, has heretofore, fre-