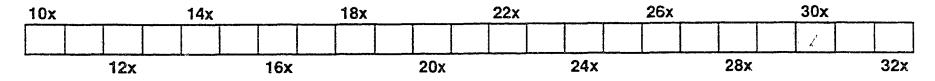
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1st Session, 4th Parliament, 16 Victoria, 1852.

BILL

An Act to regulate the proceedings relative to the seizure of Real Property in cases of *Folle enchère*, in Lower Canada.

Received and Read a first time, Tuesday, 21st September, 1852.

Second Reading, Friday, 15th October, 1852.

MR. SICOTTE.

QUINDRO I PRINTED BY JOIN LOVELL, MOUNTAIN STRUCT BILL.

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An Act to regulate the proceedings relative to the seizure of real Property in cases of Folle enchère, in Lower Canada.

HEREAS justice demands that creditors should not be Preamble. deprived of their claims upon the real property of their debtors, or unjustly delayed in the recovery of their claims by the outbidding of insolvent and unknown purchasers at the sale 5 and adjudication of the real property of their debtors, seized by authority of Justice; And whereas the Courts are not by law invested with sufficient authority to guard against the fraudulent arrange-ments of debtors with the bidders, on such occasions; Be it enacted, &c.,

- 10 That whenever it shall appear to the Court out of which the Re-sales on seizure shall have issued, by the return of the Sheriff or of any folle enchere shall be made other officer of the Court duly authorized to act in such seizure, by the sheriff that the purchaser of real property taken in execution has neg-the Court, and lected to pay the price of his adjudication according to the condi- at the instance
- gi tions of the sale, the Court, at the instance of the plaintiff or of the plaintiff. defendant or of any opposing party, shall order the Sheriff or other officer of the Court as above mentioned to proceed anew with the sale of the said real property at the folle enchere of the purchaser after two notices on two consecutive Sundays at the
- 20 door of the Parish Church of the place in which such real property is situate, or if there be no such Church then at the most public place of resort, and after two advertisements published in a public newspaper in the District; and shall direct the said Sheriff or Deposits of a such officer of the Court to require every bidder presenting him- treble costs.
- 25 self at the time of such second sale, before receiving his first bidding, to deposit and pay a sum equal to three times the amount of the costs then due to the plaintiff for costs of judgment and judicial seizure.
- 11. That if the said bidder refuse to pay such sum, such Sheriff In default of or officer of the Court shall go on with the said second sale, sale to go on. starting from the next preceding bidding, as if such bidder had not 30 offered any bidding.

In the case of a third sale, ceive from bidders a sum equal to the debt.

III. That in case of a third sale and adjudication in consethe Court may quence of the neglect of the second purchaser to deposit the order the sheriff to re- price of his purchase, it shall be lawful for the Court, if thereto required by any interested party, to order such Sheriff or officer of the Court to require every bidder, before receiving his bidding, 5 to deposit and pay into his hands a sum equal to the debt due the plaintiff, including capital, interest and costs.

Deposit may be dispensed cases.

IV. That when the plaintiff or his Attorney ad litem or any with in certain person duly authorized to act on behalf of the plaintiff, shall authorise such Sheriff or officer of the Court either in writing or 10 in the presence of two competent witnesses, whose names such officer shall enter in his return of proceedings, to receive the bidding of a bidder without requiring the deposit of monies in the cases above mentioned, such Sheriff or officer of the Court shall receive such bidding, and shall proceed to the sale and adjudication 15 of the real property seized, without requiring the deposit and payment of the sums aforesaid or of any sum whatsoever.

Bidder may be required to make a deposit efter issue of writ.

V. That if after the issue of the Writ de terris and before the first adjudication, the plaintiff or his Attorney in the cause shall declare on oath before one of the Judges of the Court, that he is 20 credibly informed and believes that the defendant with a view to retard the sale of the real property seized, will cause the real property to be adjudged to insolvent or unknown purchasers, the Court shall have power to order such Sheriff or officer of the Court, who is hereby required to obey such order, to require 25 every bidder at the sale of any real property to deposit and pay into his hands a sum equal to that due for costs up to the day of sale before receiving such bidding, unless such Sheriff or officer of the Court shall, at the time of the sale, be authorized by the plaintiff, or by his Attorney ad litem, or by some party duly an- 30 thorized to attend to his interests, to receive such bidding without requiring such deposit or payment.

Contrainte par corps against fol enchèrieseur.

VI. That in every case the fol encherisseur et adjudicataire shall, in addition, be required to pay all other damages and interest accruing to the judgment creditor, and contrainte par corps may 35 issue against such bidder for the recovery of the difference between the price bid by him and that of the re-sale on folle enchere, without his being entitled to claim any overplus that might exist. Such overplus shall be paid to the other creditors in their order, or if the creditors without interest, then to the judgment debtor. 40

VII. That such contrainte par corps shall be ordered by the At whose in-Court at the instance of the plaintiff, or of the defendant, or stance con-of any opposant not collocated for the full amount of his debt, corps may is-who shall make it appear by production before the Court of the sue.

- 5 Record and of the proceedings on the seizure of the real property, that such bidder has not paid in and deposited the purchase money, and that a difference exists between the price of such bidder and that of the second sale; and such contrainte shall be ordered and shall last until such pretended bidder shall have paid 10 the amount of such difference and of all costs incurred in the ob-
- taining of such contrainte par corps.