

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires: **Cover title page is bound in as last page in book but filmed as first page on fiche.**
- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below / Ce document est filmé au taux de réduction indiqué ci-dessous.

10x	12x	14x	16x	18x	20x	22x	24x	26x	28x	30x	32x
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

No. 30

2nd Session, 7th Parliament, 26 Victoria, 1863.

BILL.

An Act to diminish the expenses of Sales
en justice and of Confirmations of Title
in Lower Canada.

Received and read, 1st time, Friday, 27th
February, 1863.

Second reading, Monday, 30th March, 1863.

Hon. Mr. CARTIER.

QUEBEC.

PRINTED FOR THE CONTRACTORS BY HUNTER,
ROSE & LEMIEUX, ST. URSULE STREET.

An Act to diminish the expense of Sales *en justice* and of confirmations of Title in Lower Canada.

FOR the purpose of diminishing the expenses of the proceedings hereinafter mentioned: Her Majesty, &c., enacts as follows: Preamble.;

1. It shall not be necessary that the Sheriff having the execution of any writ or *alias* writ of *feri facias, de terris*, or of *Venditioni Exponas* against any immovable property, or the party prosecuting the forced licitation of any immovable property, should give notice of the sale of such property at the door of the church of the parish in which it lies, on either of the two Sundays next preceding such sale; but it shall be sufficient that such notice be given on the first of the three Sundays next preceding such sale, anything in the fourth, eighteenth or twenty-second sections of chapter eighty-five of the Consolidated Statutes for Lower Canada, or in the fourth section of Chapter forty-eight of the said Statutes, or in any other act or law to the contrary notwithstanding.
2. It shall not be necessary that the notice required in cases of application for confirmation of title, should be read or given at the church door of the parish, township or place in which the immovable property to which such application relates is situate, or at the most public place in such parish, township or place, on any Sunday except only the Sunday next but two before the day on which such application is to be made, that is to say, on the first of the three Sundays next preceding the said day, anything to the contrary in the second section of chapter thirty-six of the said Consolidated Statutes, or in any other Act or law to the contrary notwithstanding.
3. All sales of immovable property by any Sheriff shall be made at the office of such Sheriff, unless otherwise required as hereinafter mentioned; but the party at whose instance any such property is seized, or his attorney *ad litem*, may before the seizure and by notice in writing, require the Sheriff to sell the same at the church door or other proper place in the parish or locality in which it is situate, or at the Registry Office for the Registration Division in which it is included, at the option of such party; and such property shall accordingly be advertised to be sold, and shall be sold at the place at which the party seizing shall so have declared his option to have it sold.
4. When any immovable property is to be sold by any Sheriff under any writ or *alias* writ of *feri facias de terris* or *Venditioni Exponas*, bids may be made for such property by fying them in writing at the Sheriff's office at any time after the seizure, except during the three days next preceding the day of sale:—
5. With any such bid, if made by a creditor of the party on whom the property is sold, there shall be fyled an affidavit of such creditor, sworn before a Judge of the Court or Commissioner for taking affidavits to be used in the Court out of which the writ issued, stating the
- Notice of sale to be given at the church door on one Sunday only.
- Nor in cases of application for confirmation of title.
- Sales to be at Sheriff's office, unless party seizing requires other wise.
- Bids for property seized may be made in writing, and how.
- Affidavit to be fyled with any bid by a creditor.

- amount and nature of such creditor's claim, and that the bid is made *bona fide* and not to delay proceedings in the cause,—
- By a party not a creditor. 3. With any such bid made by a party not being such creditor, there shall be fyled an affidavit of such bidder, sworn as aforesaid, that the bid is made *bona fide* and not to delay proceedings in the cause, and the Sheriff may, if he thinks proper, require security from such bidder, or a deposit in money, sufficient to defray the probable costs of the party seizing to be incurred by reason of such bid, and of a *folle enchere* in case it should be required. 5
- Form. 4. Each bid shall indicate the property bid upon and the amount offered. 10
- Notarial form. 5. If the party bidding cannot write, the bid may be made by notarial *acte* delivered *en brevet*.
- Bids to be returned. 6. The Sheriff shall endorse on each bid the date of the fying thereof, and shall return it with his proceedings on the writ. 15
- Highest to be the upset price. 7. The Sheriff shall read and publish at the place and time of sale every bid in writing so received by him; and the highest of such bids shall be the upset price at which the property shall then and there be offered for sale.
- If no higher bid is made. 8. If at the time and place of sale no higher bid is offered than the highest fyled in writing as aforesaid, the property shall be adjudged to the person having made such highest bid in writing, as if he were personally present and making such bid, and he shall be the *adjudicataire* to all intents and purposes as if he had become so at the time and place of sale, and he shall be liable to *contrainte par corps* in default of immediate payment of the price, and to all the obligations of an *adjudicataire*. 20 25
- Preceding Provisions to apply to forced licitations. 5. The enactments and provisions of the next preceding section shall apply to all cases of forced licitation, in which bids in writing for the property to be sold or any separate lot thereof, may be filed at the office of the Prothonotary of the Court in the District in which the licitation has been ordered, at any time after the licitation is ordered, except during the three days next preceding the day fixed for the adjudication; and the Prothonotary or officer conducting the sale shall have the like powers and duties with respect to such bids as are by the said section conferred or imposed upon the Sheriff selling any property; and if any property be adjudged to any person upon a bid made in writing, such person shall have the like rights and be subject to the like obligations and liabilities in respect thereof as are by the said section conferred and imposed upon a person becoming an *adjudicataire* upon a bid in writing made by him at a Sheriff's sale. 30 35 40
- Highest bid to be upset price 2. The bids in writing in cases of forced licitation shall be read and published by the Prothonotary in open Court, and the highest of such bids shall be the upset price of the property to which the bid relates, when the same is sold on such licitation. 45
- No costs of opposition for claim secured by Registrar's certificate. 6. No costs of opposition shall be allowed to any opposant to the distribution of money levied by Sheriff's sale of real estate, or of money paid into Court in any case of confirmation, of title or forced licitation, when the claim of such opposant is secured by the Registrar's certificate. 50
- Notice by advertisement, of sale of moveables. 7. Whenever any movable property is seized in execution on any writ issuing from the Superior or Circuit Court, and such seizure is made in any city, town or parish in which a newspaper or newspapers is or are then published, the party prosecuting the seizure or his attorney *ad litem*, may in writing require the Sheriff or Bailiff having the execution of such writ, to give notice of the sale of the property by advertisement in the French and in the English language in the newspaper 55

- so published, if there be only one, or if all be published in the same language,—and in English in a newspaper so published in the English language, and in French in a newspaper so published in the French language, if there be a newspaper published in each language;—the
- 5 Sheriff or Bailiff shall post up and keep posted up a duplicate of such notice in each language in a conspicuous place in the Sheriff's office from the time of publication to the time of sale, and the sale shall not take place until after the expiration of eight days from the first publication of such notice. Copy to be posted up.
- 10 8. The said notice by advertisement shall be a summary one, containing the names of the parties in the cause, a general description of the movables seized, and the time and place of sale; and the cost of such advertisement shall not exceed *two dollars*. Form. Cost.
- 15 9. In every case wherein the party seizing or his attorney *ad litem* has required the Sheriff or Bailiff to give notice of the sale by newspaper advertisement, such notice shall be in lieu of the notice and publication which would otherwise be required under section two of chapter eighty-five of the Consolidated Statutes for Lower Canada, which shall not be given or made in such case. To be instead of notice under Cap. 85 of the Con. Stat L. O.
- 20 10. Whenever any property, moveable or immovable, seized in execution, lies at a distance of more than nine miles from the place at which the execution issued, the seizing party or his attorney *ad litem*, may, in writing, require the Sheriff to employ a Bailiff, if any there be, residing within the parish or locality in which the writ is to be executed, which the Sheriff shall accordingly do; but in such case the Sheriff shall not be responsible, pecuniarily or otherwise, for the due execution of the writ by such Bailiff, or for any irregularity or informality arising from any neglect or error on the part of such Bailiff. Sheriff, if required by seizing party, to appoint a bailiff of the locality.
- 25 11. The foregoing provisions of this Act shall not apply to any case in which proceedings for confirmation of Title or forced licitation have been commenced, or to any case in which movable or immovable property has been seized by a Sheriff or Bailiff, before the passing of this Act. Pending cases excepted.