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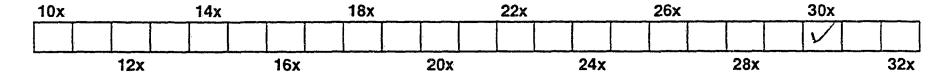
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1st Session, 5th Parliament, 18 Victoria, 1854.

BILL.

An Act to amend and consolidate the laws for the prevention of damages to and deterioration of property, either under seizure or hypothecation, to the prejudice of the seizing or hypothecary creditor.

Received and Read First time, Tuesday, 3rd Oct., 1854. Second Reading, Tuesday, 17th Oct., 1854.

Mr. Poulior.

QUEBEC:

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

1854.]

[No. 96.

An Act to amend and consolidate the laws for the prevention of damages to and deterioration of property, either under seizure or hypothecation, to the prejdiuce of the seizing or hypothecary Creditor.

HEREAS it is expedient to make better provision for preventing Preamble. VV immoveable property seized in execution under judgment, or hypothecated or mortgaged, from being fraudulently injured or wasted or the value thereof diminished, to the injury of the Creditor or the im-5 pairing of his security: Be it therefore enacted, &c., as follows:

I. It shall not be lawful for any person, personally or by the interven- It shall be a tion of others, to injure, waste or in any way to diminish the value of any misdemeanor immoveable property (whether belonging to such person or to any other teriorate properson or persons) seized in execution under any judgment, hypothecated perty under 10 or mortgaged, by destroying, carrying away or selling any house, out-seizure or hyhouse or building whatsoever erected thereon, or by wilfully deteriorating so as to impair the same, or by destroying, carrying away or injuring the timber or fences the rights of or any fixture in any house or building on such property or anything the Creditor. forming part of the realty, or committing any other act of waste upon such 15 property, so as to deprive the seizing Creditor or any Creditor in whose favor such property is mortgaged or hypothecated, or his right or remedy, or so as to diminish his security in respect of such property, and any wilful contravention of the foregoing enactment shall be a misdemeanor punishable by fine or imprisonment or both, in the discretion of the 20 Court before which the offender shall be convicted: Provided also, that Proviso: and the Court out of which the execution shall have issued under which if an action be

such immoveable property shall be seized, or the Court in which any pending, conaction founded upon a hypothec or mortgage upon such immoveable corps may shall be pending, shall have full power to award process of attachment issue against the court in the country of the court in the 25 (Contrainte par corps) against any person or persons commit- the offender. ting any offence against or contravention of the foregoing enactments, with respect to such immoveable property; and such process shall be awarded by such Court, or by any Judge thereof, in term or in vacation, after a rule or order to shew cause duly served on the person or 30 persons complained of, personally or at his or their respective domiciles, and after proof made to the satisfaction of the said Court or Judge, of

II. Any contravention of the enactments in the first section of this Act, Such act of committed in respect to any immoveable property hypothecated or mortmake any sum
gaged, shall render the whole sum or capital for securing which the
hypothec or mortgage shall have been given, immediately exigible, property imnotwithstanding any delay or term which may have been granted for the

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the facts alleged against such person or persons, who may be thereupon committed to Gaol and there detained for a period not exceed-

calendar months.

Proviso as to enreties

payment thereof, or that the same be the capital of a constituted rent. such contravention being alleged in the declaration in any action brought to recover such sum and proved to the satisfaction of the Court: but this provision shall not affect the liability of any surety (caution) for such sum, unless he be a party to the said contravention, in which case it shall apply to and affect him as well as the principal debtor and he shall be liable as if he had been surety for the immediate payment of such sum.

Act not to imremedy.

III. Provided always, that this Act shall not extend to deprive the party pair any other at whose suit such immoveable property as aforesaid may have been seized, or in whose favor- it may have been hypothecated or mortgaged, of any 10 legal recourse against the person or property of his debtor, which such party whould have had if this Act had not been passed.

Ordinance 2 Vic. c. 48 repealed.

IV. The Ordinance of the Governor and Special Council for Lower Canada, passed in the second year of Her Majesty's Reign, and intituled "An Ordinance to prevent Real Property under seizure from being injured or 15 wasted, to the damage of the party seizing," shall be and is hereby repealed, except only as regards any contravention of the said Ordinance committed before the passing of this Act, with regard to which it shall remain in full

Exception.