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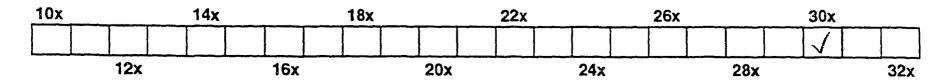
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2nd Session, 3rd Parliament, 12 Victoria, 1849.

BILL.

An Act to provide for the Sale under Executions of the interest of Mortgagers and Mortgagers in Real Estate in Upper Canada.

Received and Read a first time, Thursday, 1st February, 1849.

Second Reading, Monday, 12th February, 1849.

MR. RICHARDS.

BILL.

An Act to provide for the Sale under Executions, of the interest of Mortgagors and Mortgagees in Real Estate in Upper Canada.

WHEREAS it is expedient to provide Preamble. by law, that the interest of Mortgagors and their Equity of Redemption, and also the interest of Mortgagees, in Real Estate, may 5 be sold upon Executions against lands and tenements in Upper Canada:—Be it therefore enacted, &c.

And it is hereby enacted by the authority of the same, That from and after the passing of The interest 10 this Act, it shall and may be lawful, upon of a mortgagany Writ of Fieri Facias lawfully issued gagee may be against the lands and tenements in Upper equation. Canada of any person or persons who, or any of whom, may be a Mortgagor or Mortgagee 15 of Real Estate in the District to the Sheriff of which such Writ is directed, to seize or take in execution, sell and convey, (in like manner as any other Real Estate might be seized or taken in execution, sold and con-20 veyed,) all the legal and equitable estate, right, title, interest and property, and the Equity of Redemption of such Mortgagor or Mortgagee in any lands and tenements in such District.

IL And be it enacted, That the effect of Effect of such such seizure or taking in execution, sale and seizure and of the sale and conveyance, shall be to transfer to and vest coveyance to in the purchaser or purchasers, and the heirs it by the Sherand assigns of such purchaser or purchasers, iff: and obligations of the legal and equitable estate, right, title, purchaser, &c. interest and property, and the Equity of Redemption of such Mortgagor or Mortgagee, in

the lands or tenements so seized or taken in execution, sold and conveyed; and to give to and vest in such purchaser or purchasers, and the heirs and assigns of such purchaser or purchasers, the same advantages, benefits, 5 rights, privileges and powers as such Mortgagor or Mortgagee could or would have had, enjoyed or exercised if such sale had not taken place; and that such purchaser or purchasers of the interest of such Mortgagor, 10 or the heirs or assigns of such purchaser or purchasers may pay, remove or satisfy, or cause or procure to be paid, removed or satisfied any mortgage or mortgages, charge or charges, or lien or liens, which at the time of 15 such sale lawfully or equitably existed upon the lands or tenements so sold, in like manner as such Mortgagor or Mortgagors against whom such Writ of Fieri Facias was issued, might, or could pay, remove or satisfy such 20 mortgage or mortgages, charge or charges, or lien or liens; and that upon such payment, removal and satisfaction thereof being effected by such purchaser or purchasers, or the the heirs and assigns of such purchaser or 25 purchasers, such purchaser or purchasers and the heirs and assigns of such purchaser or purchasers, shall take, have, hold, possess and enjoy the same estate, right, title, interest, property, benefit and advantage which such 30 Mortgagor or Mortgagors against whom such Writ of *Fieri Facias* was issued, might or would have taken, had, held, possessed and: enjoyed in case such payment, removal or satisfaction had been effected by such Mort-35 gagor or Mortgagors.

Mortgagee may purchase the lands mortgaged to him.

III. And be it enacted, That any Mortgagee or Mortgagees of the lands and tenements so sold, or of any part thereof, or the heirs or assigns of such Mortgagee or Mortgagees, 40 (being, or not being, Plaintiff or Plaintiffs, Defendant or Defendants in the judgment whereon the Writ of *Fieri Facias* on which such sale shall take place, was issued) may be the purchaser or purchasers at such sale, 45

and shall and may take, have, hold, possess and enjoy the same estate, title, property, benefits, advantages, rights, privileges and powers as such purchaser or purchasers as any 5 other purchaser or purchasers not interested in the lands or tenements so sold, as Mortgagee or Mortgagees; I rovided always, that if Proviso: he the Mortgagee of the said premises shall be- the debt for come the purchaser thereof, he shall give to which the 10 the Mortgagor a release of the debt, for the mortgage was payment of which the mortgage may be given: and if any other person shall become such Provision if purchaser, and the Mortgagee shall enforce any other person shall be payment against the Mortgagor, of the debt the purchaser. 15 to secure which the mortgage was given, such purchaser shall be compelled to repay the said debt and interest to the Mortgagor, and in default of such payment, within one calendar month after the same is 20 demanded, the Mortgagor may sue such person in any Court of competent jurisdiction, and recover the amount of such debt and inte-

rest, in an action for money had and received, and until the said debt and interest, if recov-25 ered from or paid by the said Mortgagor after such sale, shall be repaid to him, the same shall be a charge upon the premises so mort-

gaged and sold.

IV. And be it enacted, That where words Interpretation 30 occur in this Act, importing the singular num- clause. ber or the masculine gender only, they shall be understood to include more than one person, matter or thing of the same kind, as well as one person, matter or thing, and fe-35 males as well as males, unless it be otherwise expressly provided; and when it would be consistent and reconcilable with the intent and meaning of this Act, wherever any person is described, it shall be held to apply to 40 such person, his heirs, executors, administrators or assigns; and all other words, terms or phrases shall receive such fair and liberal construction as shall be best adapted to carry out this Act according to its true intent and 45 meaning.