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1st Session, 4th Parliament, 16. Victoria, 1853.

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## **B I L L .**

An Act to regulate the proceedings in  
cases of Voluntary Licitation.

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Received and Read a first time, Wednesday,  
25th May, 1853.

Second Reading, Monday, 30th May, 1853.

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**Mr. LAURIN.**

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**QUEBEC :**

**PRINTED BY JOHN LOVELL, MOUNTAIN STREET.**

1237

1852-3.]

**BILL.**

[No. 412.]

**An Act to regulate the proceedings in cases of Voluntary Licitation.**

**WHEREAS** the formalities required in cases of voluntary licitations cause inconvenience, delay and expense to parties interested; Be it therefore enacted, &c., Preamble.

That whenever it shall be intended to sell or otherwise alienate the real estate of minors or of any other person whose real estate can only be sold or otherwise alienated according to the formalities by law required for the sale or other alienation of the real estate of minors, the Notary, before calling a meeting of the relations and friends for that purpose, in conformity with the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, chapter fifty-eight, shall cause two *experts* to be appointed, who shall not be related to any of the parties or to their legal representatives, or interested in the matter in question, (mention whereof shall be made in the deed of *expertise*,) one of which *experts* shall be appointed by the tutor, and the other by the *subrogé* tutor of the minors, (or, in the case of the real estate of any other person, subject to the same formalities as provided by law for the real estate of minors, one *expert* shall be appointed by the curator to such person, and the other by one of the relations nearest of kin to, or appearing to be most interested in such person,) of which appointment an *acte* shall be drawn up before Notaries in the form of Schedule A; to which *experts* any Notary shall, by this Act, be authorised to administer the oath according to law, which oath shall be taken (in the form of Schedule B) by the said *experts*, before entering upon their duties; it shall then be the duty of the said *experts* to proceed to ascertain the value of the real estate in question, and if the sale thereof shall be required on account of indivisibility, they shall also proceed to ascertain whether it can not be conveniently divided, and shall make their report thereon by *acte* before Notaries, delivered *en brevet*, in the form of Schedule C; it shall thereupon be lawful for any Notary to summon before him the relations and friends who are to compose the said meeting; he shall administer the usual oath to the persons present at such meeting, and shall read to them the contents of the *acte* of declaration of the person requiring such meeting, and the contents of the *acte* of *expertise* aforesaid, and shall take their advice and prepare an *acte*

Appointment of experts to ascertain the value of real estate.

Meeting of relations.

Acts of expertise.

in the form of Schedule D, mentioning therein the names and the age of the minors, the degrees of relationship, the quality and residences of the persons composing such meeting, and giving therein a description of the real estate.

Proceedings  
to be trans-  
mitted to  
Judges for  
homologation.

II. The Petitioner shall transmit to the Judges of the Superior Court, or the Judges of the Circuit Court, all the originals of the proceedings above-mentioned and submit them with a Petition (which every Notary is hereby authorized to certify in the usual manner) setting forth succinctly the object and purpose of the said proceedings without any special designation whatever, in order that the same may be homologated, if they ought so to be, which Petition shall be in the form of Schedule E: if the Judge to whom such proceedings shall be submitted, homologates the *avis de parents*, he shall place his *acte* of homologation and ordinance in the form heretofore made use of in like cases, at the foot of the *acte* containing the *avis de parents* and the whole shall be deposited with the other proceedings in the Archives of the office of the Court, in order that copies thereof may be given to parties entitled thereto; and if the Judge to whom the proceedings in question are referred shall think proper to refuse to homologate them, he shall state his reasons for so doing at the foot of the Petition, and shall affix his signature thereto.

To apply to  
Lower Canada  
only.

III. This Act shall apply to Lower Canada only.

### SCHEDULE A.

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year one thousand eight hundred and \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, before the undersigned Public Notaries for Lower Canada, residing in the District of \_\_\_\_\_ came and appeared A, residing \_\_\_\_\_ of the one part, and B, residing \_\_\_\_\_ of the other part, who have appointed, that is to say, the said A \_\_\_\_\_ the person of \_\_\_\_\_ and the said B \_\_\_\_\_ that of \_\_\_\_\_ as *Experts* for the purpose of proceeding to the inspection of the real estate belonging to \_\_\_\_\_ described in the declaration made by the said \_\_\_\_\_ by *acte* before *Mtre.* \_\_\_\_\_ Notary (or one of the undersigned Notaries,) to ascertain the value thereof, (and if the sale is demanded on account of indivisibility) and whether or not it can conveniently be divided.

### SCHEDULE B.

I, \_\_\_\_\_ and I, \_\_\_\_\_ do make oath and swear that I will faithfully proceed to the performance of what is required of me by the *acte* of my appointment, executed before *Mtre.* \_\_\_\_\_ Notary,

and his Colleague, on the \_\_\_\_\_ and that I will make a true report: of my opinion on the whole matter, without favor or partiality for any of the parties interested, without favor or partiality towards any of the parties interested in the matter in question : So help me God.

Sworn before us the undersigned Notaries.

SCHEDULE C.

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year one thousand eight hundred and \_\_\_\_\_ at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, before me the undersigned Public Notary for Lower Canada, residing in the District of \_\_\_\_\_ came and appeared \_\_\_\_\_ the experts appointed by the Acte above executed by the undersigned Notaries on \_\_\_\_\_ who declare that having previously made oath as appears by the certificate hereunto annexed, they proceeded on the day of \_\_\_\_\_ to the inspection of the real estate, appurtenances and dependencies mentioned and described in the declaration of \_\_\_\_\_ received by Mtre. \_\_\_\_\_ Notary, the \_\_\_\_\_ and after due examination and obtaining every information necessary for the purposes mentioned in their said acte of appointment, they value and estimate the said real estate, \_\_\_\_\_ (if there be several immoveables they should be valued separately, and further, if the sale is made on account of indivisibility) and declare that it cannot conveniently be divided.

The said experts further declare that they are not related to the parties interested in the matter in question nor to their legal representatives.

Acte whereof is delivered en brevet at \_\_\_\_\_

SCHEDULE D.

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year one thousand eight hundred and \_\_\_\_\_ at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, before me, the undersigned Notary Public for Lower Canada, residing in the District of Montreal, came and appeared \_\_\_\_\_ who affirms that in conformity with the declaration made by acte before Mtre \_\_\_\_\_ Notary, bearing date the \_\_\_\_\_ for the purpose of obtaining authority to sell, for the reasons therein set forth, the real estate belonging to \_\_\_\_\_ therein designated and described as follows, to wit : (here describe the real estate) he did for the said purpose cause to be summoned before us, to wit :

\_\_\_\_\_ in default of relations, \_\_\_\_\_ requiring us, they being present, to receive their advice as to the contents of the acte of declaration aforesaid, and the parties above named having appeared, we have caused to be read the said acte of declaration, the report of the experts made before Mtre. \_\_\_\_\_ Notary, and his colleague, and have taken and received from them the necessary oath, and such oath having been made, they have all unanimously declared, that

they are of opinion that

(Should there be a division of opinion, mention the same and give the reasons therefor.)

## SCHEDULE E.

PROVINCE OF LOWER CANADA, }  
*District of* }

To the Honorable the Justices of the Superior Court (or the Judges of the Circuit Court,) &c., &c., &c.

A, (addition and place of residence) humbly represents, that he has caused the relations and friends to be consulted by *Mtre.*, Notary at on the day of , and has caused to be fulfilled all the proceedings by law required to be had in order to and submitted for your approval. And he therefore prays that your honors will take these proceedings into consideration and homologated them, if they ought to be so homologated, and you will do justice.

At the 185