

Expenditure of  
the money to be  
accounted for.

II. And be it further enacted by the authority aforesaid, that the due application of the monies to be advanced in virtue of this Act, shall be accounted for to His Majesty, His Heirs and Successors through the Lords Commissioners of His Majesty's Treasury for the time being in such manner and form, as His Majesty, His Heirs and Successors shall be pleased to direct.

## C A P. XI.

AN Act to render voluntary Sheriff's Sales, (*Décrets Volontaires*) more easy and less expensive.

(22d. March, 1823.)

Preamble.

WHEREAS the Laws now in force, make no difference between the mode of proceeding to compulsory and voluntary Sheriff's Sales, (*décrets*) with respect to formalities and expenses which are alike in both cases, and whereas the rendering voluntary Sheriff's Sales more easy and less expensive, would be very beneficial to the public: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, "An Act for making more effectual provision for the Government of the Province of Quebec, in North America," and to make further provision for the Government of the said Province;" and it is hereby enacted, by the authority of the same, that when and so often as any Proprietor or any other person desirous of purchasing real property or hereditaments, shall choose to cause the same to be sold by Sheriff's Sale, on himself (*Décréter sur lui-même*), or on the purchaser, it shall be sufficient for him to present to a Court having jurisdiction and authority, to cause a Sheriff's Sale to be proceeded to in the usual form, a Petition to the said Court, setting forth the grounds of his demand; alleging his wish to cause to be sold by Sheriff's Sale, such real property or hereditaments, whereof he shall be held to give a correct description according to Law, in order to obtain from such Court an order directed to the Sheriff, to proceed to the seizure, sale and adjudication of such real property or hereditaments, in the manner prescribed with respect to any other Sheriff's Sale of real property or hereditaments, by virtue of the Laws now in force in this Province.

Proprietor or  
person purchas-  
ing real property,  
how to proceed,  
in order that the  
same may be sold  
by the Sheriff.

II.

Proprietor, &c. to declare in his petition the person on whom he intends to cause the seizure.

II. And be it further enacted by the authority aforesaid, that each proprietor or such purchaser shall in his petition declare the person or persons on whom he intends to cause such seizure, sale and adjudication to be made, and who is the person actually in possession of such real property or hereditaments and who was in possession thereof, before that time during the three last years next before the seizure: and in order to avoid expenses and costs resulting from any opposition, *afin de chargè*, on the said real property or hereditaments, the said proprietor or purchaser may also state in such petition the real charges and servitudes, *charges réelles*, with which the said real property or hereditaments may be charged, (*Grévés.*)

Particulars ordered by this Act to be set forth in the order or judgment, directing the Sheriff to proceed,

III. And be it further enacted by the authority aforesaid, that the aforementioned particulars shall be set forth and specified in the order or judgment, directing the Sheriff to proceed to the seizure, sale and adjudication of such real property or hereditament, and also in the publications, notices and *Placards* which he is by Law bound to cause to be published before proceeding to the said Sale, and more-over it shall be made known in the same manner, that the Sheriff's Sale to which he is proceeding, is a voluntary Sheriff's sale, (*Décret. Volontaire.*)

Persons having certain rights to claim and enforce, to lodge them with the Sheriff within a given time.

IV. And be it further enacted by the authority aforesaid, that inasmuch as such voluntary Sheriff's Sale must have for its main object, to make known to the person who is desirous of causing such Sheriff's Sale to be proceeded to, the charges and rights, and especially the mortgages, (*hypothèques*) which may be the subject of *opposition à conserver*, before he procures an adjudication thereof to himself, it shall in voluntary Sheriff's Sales, be the duty of every person, having rights of this nature, to claim and enforce, to produce such opposition, eight days at the least, before the day fixed for the said adjudication, and that the Sheriff shall also be held to notify the public thereof in the said Notices, Publications and *Placards*.

When the person suing for voluntary Sheriff's Sale shall be the *Adjudicataire*, in that case, not obliged to pay the whole sum in the hands of the Sheriff, but only the expenses and the amount of the sums for which opposition a *conservation* has been made.

V. And be it further enacted by the authority aforesaid, that when the person suing for such voluntary Sheriff's Sale, shall become *adjudicataire* of the real property or hereditament for which he shall have obtained the same, he shall not be obliged to place the whole price of the adjudication in the Sheriff's hands, unless it shall have been otherwise agreed between the parties interested, but only the necessary expenses of the proceeding to such Sheriff's Sale, and the amount of the sums for which, *opposition à conserver*, shall have been made.

*Adjudicataire* may retain the amount of such sums for which

VI. Provided always, and be it further enacted by the authority aforesaid, that the *adjudicataire* shall be entitled, instead of depositing the amount of such sums for which

oppositions have been made on giving security.

which oppositions have been made, to retain the same in his own hands, on giving good and sufficient security to pay, and place the same in the hands of the said Sheriff within eight days after the judgment of distribution shall have been pronounced.

Sheriff not entitled to a commission upon any part of the price of adjudication, except that which has been paid to him, or for which the Adjudicataire has given security.

VII. Provided always, and be it further enacted by the authority aforesaid, that the Sheriff shall not require any commission upon any part of the price of the adjudication, except that which shall, in fact, have been paid to him, or for which the *adjudicataire* shall have given him security.

Nothing in this Act contained to alter the formalities in force respecting Sheriff's Sales, *décrets*.

VIII. Provided always, and be it further enacted by the authority aforesaid, that nothing herein contained, shall be construed so as to alter, change or otherwise modify the formalities prescribed by the Laws of this Province for Sheriff's Sales, (*Décrets*) other than such as are voluntary, and that all those formalities which are required for compulsory Sheriff's Sales shall be observed, with respect to voluntary Sheriff's Sales which may be made in virtue of this Act, except in so far as they are hereby dispensed with, changed or altered.

In case of refusal on the part of the adjudicataire, to pay the money how to be proceeded against.

IX. Provided always, and be it further enacted by the authority aforesaid, that in case of refusal or neglect on the part of the said *adjudicataire* or his sureties to pay within the time limited by this Act, the sums of Money to the payment of which they shall so have bound themselves towards the said Sheriff, then and in that case, they shall be liable to all such compulsory proceedings (*contraintes*), as all Judicial Sureties (*Cautions Judiciaires*) are at present liable to, for refusal to pay monies ordered by sentence or judgment, according to the ordinary course of Law.

Not to prevent property being sold, at the *folle enchère* of the *adjudicataire*.

X. Provided also and be it further enacted by the authority aforesaid, that nothing herein contained, shall in case of voluntary Sheriff's Sales (*Décrets volontaires*), extend to prevent any person who is thereunto entitled by virtue of the Laws at present in force, from demanding that the Sale of such real property or hereditaments be proceeded to at the *folle enchère* of an *adjudicataire*, in the form and manner prescribed by the Laws of this Province.

Continuance of this Act.

XI. And be it further enacted by the authority aforesaid, that this Act shall be, and remain in force until the first day of May, one thousand eight hundred and twenty-eight, and no longer