

future bailiffs to a more strict examination than that to which bailiffs are at present subject: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows :

- Bailiffs must write English or French grammatically.**  
**Examination.** I. No person shall hereafter be admitted as a bailiff of the Superior Court of Lower Canada and registered as such, unless he be able, at the time of his admission, to write with sufficient grammatical correctness the French or English language ; Every petition addressed to the said Court for the purpose of getting the Petitioner included in the number of bailiffs of such Court, shall be by the Justices thereof, or one of them, referred to the Clerk, who shall examine the candidate and report to the said Court touching his qualifications, both as regards those now required and that required by this Act : and the prayer of such petition shall not be granted, unless it shall appear by the Report of the Clerk that the petitioner can write with sufficient grammatical correctness as aforesaid.
- Report.**
- Fee on examination.** II. The Clerk shall receive from each Petitioner the sum of one pound for each examination, which sum shall include the cost of his Report to the Court.
- Candidate may be rejected tho' qualified as above.** III. Nothing herein contained shall exempt a candidate from the qualification at present required, nor deprive the Court of its discretionary power to reject such Petition, even though the Petitioner should possess the qualification above mentioned.
- Inconsistent provisions repealed.** IV. The provisions of the several Judicature Acts now in force, which may be inconsistent with the provisions of this Act, are hereby repealed.
- Act not to apply to Gaspé.**  
**Commencement.** V. This Act shall apply to Lower Canada only, with the exception however of the District of Gaspé, which shall not be subject to its operation ; and it shall come into force on the first day of September, one thousand eight hundred and fifty-five.

### C A P . C X .

An Act to regulate the Proceedings on Forced Licitations, and to give them the effect of Sheriff's Sales  
(*Décrets.*)

[Assented to 30th May, 1855.]

**Preamble.**

**W**HEREAS it is necessary to provide a more simple and less expensive mode of proceeding to the forced licitation of immoveables held *par indivis* in Lower Canada : Be it therefore enacted by the Queen's Most Excellent Majesty, by and

and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows :

I. In any case in which a licitation shall be ordered, the party prosecuting the same, and who shall have obtained such order, shall cause to be inserted three times during the space of four months in the *Canada Gazette* published by authority, a public notice setting forth that the immoveables subject to licitation will be put up to auction and adjudged to the highest bidder, at a sitting of the Superior Court held after the expiration of four months from the date of the first insertion of the said notice in the *Canada Gazette* ; which said notice may be in the form of the Schedule A to this Act annexed.

How the sale under a forced licitation shall be advertised.

Form of Notice.

II. The above-mentioned notice shall in like manner be published on the three Sundays immediately preceding the day fixed for the sale and adjudication, at the door of the Church of the Parish in which the said immoveables shall lie, and if there be no Church, or if the said immoveables be situate without the limits of any Parish, then in the most public place of the locality ; and the said notice shall be posted up at the door of the said Church or at the said most public place, on the first Sunday on which it shall have been so published.

Publication at Church door.

If no Church.

Posting up Notice.

III. The adjudication which shall be made after the above prescribed formalities have been complied with, shall have all the effect of a *décret*, and shall purge the property from all charges, privileges, hypothecs and vested rights (*droits ouverts*) in the same manner as adjudication upon execution against immoveables, excepting the charges entered in the register of charges, as regards the said licitation.

To have the effect of a *décret* as to all vested rights.

IV. Every opposition *afin d'annuler*, *afin de charge*, or *afin de distraire* in respect of immoveables under licitation, shall be filed in the office of the Court by which the licitation has been ordered, at least fifteen days before the day fixed for the public sale thereof ; and on failure to file such opposition, the legal recourse of the party who shall have neglected to file his opposition, shall be converted into an opposition *afin de conserver* on the moneys arising from the adjudication.

When oppositions to the sale must be filed.

May be converted into claims on the proceeds.

V. In all cases in which any opposition *afin d'annuler*, *afin de charge*, or *afin de distraire* so filed, cannot be tried before the day fixed for the sale, the licitation shall be suspended until judgment shall have been rendered thereon, and the Court may appoint another day for the sale and adjudication, notice being given

Sale suspended until oppositions to it are decided.

Notice of new day of sale. given by the parties interested, in the said *Canada Gazette*, of the day so appointed, which said notice shall be published once at least ten days before that appointed by the Court as aforesaid.

To what charges the adjudication shall be subject. VI. The adjudication shall be made in accordance with the conditions contained in the list of charges approved by the Court after hearing the parties thereupon, and the purchase money shall be disposed of in the manner provided for the disposing of moneys arising from execution against the immoveables of any debtor by virtue of a judgment.

Penalty on purchaser failing to pay. VII. The purchaser of any immoveables sold as aforesaid shall, in default of payment of the price of sale, be subject to the same penalties and obligations as any other purchaser of property sold under execution.

When claims on the proceeds may be filed. VIII. All oppositions *afin de conserver* must be filed before the expiration of the six days next after the adjudication.

#### SCHEDULE A.

Lower Canada,  
District of

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LICITATION.

Public notice is hereby given that under and by virtue of a judgment of the Superior Court sitting at \_\_\_\_\_, in the District of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_, in a cause in which A. B. (*description at length*) is Plaintiff and C. D. (*description at length*) is Defendant, ordering the licitation of certain immoveables described as follows, to wit: (*here insert the description of the property to be sold*) the property above described will be put up to auction and adjudged to the last and highest bidder on the \_\_\_\_\_ day of \_\_\_\_\_ next, sitting the Court, in the Court Room of the Court House in the said city (*or town*) of \_\_\_\_\_ subject to the charges, clauses and conditions contained in the list of charges deposited in the Office of the Clerk of the said Court; and any opposition *afin d'annuler, afin de charge* or *afin de distraire*, to the said licitation, must be filed in the Office of the Clerk of the said Court fifteen days at least before the day fixed as aforesaid for the sale and adjudication, and oppositions *afin de conserver* must be filed within the six days next after the adjudication, and failing the parties to file such oppositions within the delays hereby limited, they will be foreclosed from so doing.

(Date.)