

An Act to provide for the sale of lands of deceased debtors under execution in Upper Canada.

WHEREAS by an Act of the Imperial Parliament, passed in the fifth Preamble. year of His Majesty, King George the Second, chapter seven, intitled "An Act for the more easy recovery of debts in His Majesty's plantations and Colonies in America," it is among other things enacted, 5 "That from and after the twenty-ninth day of September, one thousand seven hundred and thirty-two, the houses, lands, negroes and other hereditaments and real estates situate or being within any of the said plantations, belonging to any person indebted, shall be liable to and chargeable with all just debts, duties and demands, of what 10 nature or kind soever, owing by any such person to His Majesty or any of his subjects, and shall and may be assets for the satisfaction thereof in like manner as real estates are by the law of England liable to the satisfaction of debts due by bond or other specialty, and shall be subject to the like remedies, proceedings and process in any 15 court of law or equity in any of the said plantations respectively, for seizing, extending, selling or disposing of any such houses, lands, negroes and other hereditaments and real estates towards the satisfaction of such debts, duties and demands, and in like manner as personal estates in any of the said plantations respectively are seized, extended, sold 20 or disposed of for the satisfaction of debts."

And whereas it has been determined under the said Act that the fee simple lands of a deceased debtor which have descended upon his heir at law, or which have been devised by the debtor, may be seized and sold under an Execution issued upon a Judgment obtained against the 25 personal representative of the debtor, without notice to the heir or devisee and although the personal representative has no charge of, or any interest in or control over the lands.

And whereas, it is unjust that sales should be made in such cases, and it is expedient from the long practice of the law which has prevailed in 30 this respect that the sales which have been made should be maintained, Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. All sales of lands in fee simple or *pour autre vie* of any deceased Former sales debtor heretofore had or made under any Execution issued against the valid. 35 personal representative of the debtor, shall be valid in like manner as if the same had been had or made under an Execution issued against the debtor in his lifetime.

2. No sale of the fee simple lands, or lands held *pour autre vie* No future sale of any deceased debtor shall hereafter be made under any Judg- to be made 40 ment recovered against the personal representative of the debtor, or unless heir, under any execution issued against the personal representative of the &c., party to debtor, unless the heir at law, tenant in special occupancy, or devisee as suit. the case may be, is a party to the judgment or execution, and has had an opportunity of pleading thereto.