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4th Session, 3rd Parliament, 14 Victoria, 1851.

BILL.

An Act to exempt, to the value of £62 10s., the Tools or Implements of any Householder's Trade or Calling, and the Wearing Apparel, the Bedding, and other Furniture required for the use of his Family, from seizure and sale under Execution for Debt; and to prevent the property thus exempted from being assigned, pledged or sold, in liquidation of Debts contracted for Intoxicating drinks.

Received and read a first time, Saturday, 2nd August, 1851.

Second reading, Monday, 4th August, 1851.

Mr. MACKENZIE.

1699

BILL.

An Act to exempt the Tools or Implements of any Householder's Trade or Calling, and the Wearing Apparel, the Bedding, and other Furniture necessary for the use of his Family, from seizure and sale under Execution for Debt; and to prevent the property thus exempted from being pledged or sold in liquidation of Debts contracted for Intoxicating Drinks.

WHEREAS intemperance, fraud, theft, and other degrading crimes and vices, oftentimes have their origin in that extreme poverty or destitution, which shuts out hope, begets despair, breaks up families, and increases pauperism; and it is the duty of a wise and paternal Government, while equitably and impartially enforcing the obligation of contracts, to keep ever in view that a want of sympathy with the people weakens any State in its hour of danger: And whereas the limit beyond which it is oppressive, unjust, and at variance with all sound policy to permit the decree of the Judge to be enforced against the personal property and effects of the debtor, is that which leaves in possession of the family such necessary wearing apparel, food, fuel, furniture, bedding, and tools or implements of a trade or calling, the want of which would probably reduce the household to want and misery: And whereas in cases where either the husband or the wife becomes habitually intemperate, it is manifestly unjust to permit all the furniture and effects of the family to be sold for debt, thus increasing the difficulties of the innocent party, and violating the Christian rule to do as one would be done by: And whereas life and property become insecure, and the pillars upon which civilization and order rest are weakened, when a portion of the people become impoverished, demoralized and discontented, while looking for aid or forbearance in their day of adversity: Be it therefore enacted, &c.,

That the fourth chapter of the Acts passed by the Legislature of the late Province of Upper Canada, in the 11th year of the reign of King George IV., March 6, 1830, being "An Act for the relief of Indigent Debtors," shall be and is hereby repealed.

Act of U. C.
11 G. 4, c.
4 repealed.

Section 89, of
13 and 14
Vict. c. 53
cited.

II. And whereas it is provided, in the 89th section of the 53rd chapter of the Acts passed in the 13th and 14th years of the reign of Queen Victoria, being "*An Act to regulate the practice of Division Courts in Upper Canada,*" "That every Bailiff or officer executing any process of 5
"execution issuing out of any Division Court in Upper
"Canada, against the goods and chattels of any person,
"may by virtue thereof seize and take any of the goods
"and chattels of such person (excepting the wearing
"apparel and bedding of such person and his family, 10
"and the tools and implements of his trade to the value
"of five pounds, which shall to that extent be protected
"from such seizure);" be it enacted, that instead of the
exemption from seizure of such apparel, bedding, and
tools of trade, to the value of £5, under authority of the 15
said Division Courts Act, (passed August 10, 1850,) and
instead of any exemptions from seizure under acts, ordi-
nances or usages of the late Legislature of Lower Canada,
the property to be hereafter exempt shall be that which is
described in the next following section of this Act. 20

The exemp-
tion therein
contained ex-
tended.

To what pro-
perty the ex-
emption from
seizure shall
extend.

III. And be it enacted, That the following property owned by a householder, and in actual use, or kept in use by and for his family, or, in case of his death, by and for his widow or children, or when being removed from one habitation to another upon a change of residence, 25
shall be exempt from execution, except as herein other-
wise specially provided:—

1. Books, pictures and musical instruments, to the value of £12 10s.

2. Necessary household, table, and kitchen furniture; 30
including stoves, stove pipe, and stove furniture, wearing
apparel, beds, bedding and bedsteads, provisions actu-
ally provided for family use, sufficient for six months, in-
cluding meat, fish, vegetables, flour and meal, with fuel
for sixty days, one cow, ten sheep, two swine, and food 35
for them for three months.

3. The seat or pew occupied by the debtor or his family, in a house of Public Worship where seats are sold or rented.

4. The tools and implements of a mechanic, necessary 40
to carry on his trade.

5. A horse, harness, and cart, or other vehicle, by the use of which a physician or constable, or a cartman, teamster, or other labourer, habitually earns his living.

But the aggregate value of all the property so exempt, 45
cannot exceed £62 10s. ; nor shall any article be exempt
from an execution issued on a judgment for its price.

1699

IV. And be it enacted, That the debtor, [or his wife or family, in his absence,] shall point out to the Sheriff, Bailiff, Constable or other Officer, authorized to seize and sell by virtue of such execution, and deliver to him 5 a list or inventory of such of the articles exempted by Sections II and III, as he desires to retain possession of, and it shall not be lawful for such Sheriff or other Officer to seize and sell the articles in such list or inventory, if they do not exceed £62 10s. in cash value.

Debtor may point out the property he wishes to save, &c.

10 V. And be it enacted, That every assignment, sale or pledge of articles or property exempted by this Act, and every levy or sale of such articles or property, by virtue of an execution, by consent of the defendant therein, shall be void, where the consideration, or any part there- 15 of, for which such assignment, sale or pledge was made, or for the debt on which judgment was rendered in any court, and on which such execution was issued, was for the sale of intoxicating liquors; and in any action commenced 20 aforesaid, the persons for whose benefit such sale or transfer was made, may be called and examined as witnesses, relative to such sale of intoxicating liquors, in the same manner, and subject to the same penalties, as if called to give evidence in any other case.

Assignment, sale or seizure of exempted articles, to be void if the consideration be the sale of intoxicating liquors.