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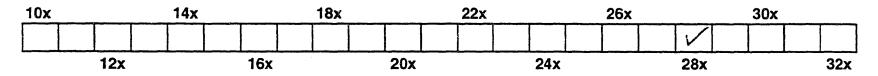
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3rd Session, 5th Parliament, 19 Victoria, 1854.

BILL.

An Act to exempt the Family Homestead, when under the value of \$, from forced sales on execution, to pay Debts.

Received and Read 1st time, Tuesday, 3rd March, 1857.

Second Reading, Monday, 9th March, 1857.

MR. MACKENZIE.

TORONTO:

An Act to exempt the Family Homestead, when under the value of \$, from forced sale under Execution, to pay debts.

THEREAS it is expedient to afford further relief to poor Families, Preamble. and to persons who are broken down with age, poverty, or disease; as also to secure the possession of a homestead to Widows and Orphans in such cases as are hereinafter stated : Therefore Her Majesty, &c., 5 enacts as follows :

I. In addition to the property exempt by law from sale under execu- A certain extion for debt, a lot of land, dwelling house and the out-buildings thereon, tent of real property ex-or so much thereof as shall not exceed in value hundred dollars, empted as rethe property of a householder in actual possession thereof, shall be gards debts 10 exempt from seizure or levy upon any execution issued on a judgment contracted recovered upon or for any debt contracted jointly or severally, after the first day of January one thousand eight hundred and fifty-five.

II. The widow and minor children of any person deceased, who held The same proproperty exempted, as aforesaid, may continue to hold the exempted perty exempt 15 prenises during the minority of such children, or while such widow the widow, &c. remains unmarried, and the exempted property shall not be sold during such minority, or while the said widow remains unmarried, for the pay-ment of any debt mentioned in the first section of this Act; Provided, Proviso. nevertheless, that the said widow or some one of such children must actually

20 ly occupy and possess the homestead in order to render it exempt as aforesaid.

III. The head of any family, or any householder, wishing to avail Description of himself of the benefits of this Act, may file a certificate by him signed, property for declaring such wish and describing the property, with the Register of tionis claimed

- 25 Deeds in the County where the same is situate; and upon receiving the to be register. fees now allowed for recording deeds, such Register shall record the same in a book provided for that purpose, and known as the "Homestead Exemption Book;" and so much of the property in such certificate described, as does not exceed the value aforesaid, shall be exempt from
- 30 seizure or levy on any execution issued on a judgment recovered for any debt, contracted jointly or severally, by the person signing such certificate, after the date of the recording thereof: and the record in such Register's office shall be prima fucie evidence that the certificate purporting to be there recorded, was made, signed and filed, as appears
- 35 upon such record; and upon being recorded as aforesaid, the property as described in the first section of this Act, shall be exempted within the provisions thereof.

IV. Such exemption shall not extend to any mortgage lawfully ob- Certain morttained upon the property; but no such mortgage or other alienation of gages not within the A°î

exomp tion.

such land by the owner thereof, if a married man, shall be valid without the assent and signature of the wife to the same, freely given before a Judge of a County Court, or as is provided in the case of barring of dower.

Proceedings itor alleges the property to be above the limited value.

ty cannot be divided.

V. When property exempted as aforesaid is alleged by a creditor to be 5 when the cred- of greater value than hundred dollars, it may be seized on execution, and the appraisers shall first set off such part of the property as the debtor may select; and if he neglects so to do, the officer may select for him to the value of hundred dollars, by metes and bounds, and shall then appraise and set off to the creditor the remainder 10 or so much thereof as may be necessary to satisfy such execution; and If the proper- the appraisers shall be sworn accordingly; In case the premises exceed in value, but cannot be divided as above, they shall deliver an \$ appraisal of the property to the Sheriff, who shall deliver a copy thereof to the debtor or some one of his family of a suitable age to understand 15 it, with a notice that unless the execution debtor pay to the Sheriff within sixty days the surplus over \$ the premises will be sold; In case the surplus is not so paid the Sheriff may sell the property, and pay of the proceeds, which shall be exempt from execution the debtor \$ for one year thereafter, and apply the balance towards satisfying the 20 No sale unless execution ; Unless upwards of \$ is bid there shall be no sale, and more than the the Sheriff shall return the execution unsatisfied for want of property. exempted am- The costs of thus selling a homestead shall be included in the costs upon the execution.

This Act not contracted for the property, \$ 0.

ount is bid.

Costs.

VI. The provisions of this Act shall not impair or affect any 25 to affect debts mechanic's or labourer's lien for work done or labour performed on the premises thus to be exempted from sale under execution for debt; nor shall it prevent the sale of the land and premises for debts incurred in the purchase of the same, or incurred prior to the recording of the same, 30 as provided in section three, or for taxes.