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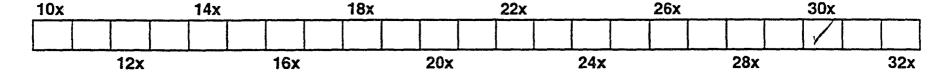
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1st Session oth Parliament, 18 Victoria 1854.

BILL.

An Ac o exempt the Homestead of Families when under the value of from forced sales under execution to pay Debts.

Received and Read 1st time, Wednesday 27th Sept., 1854.

Second Reading, Wednesday, 11th Oct., 1854.

11854

BILL.

No. 55.]

An Act to exempt the Homesteads of families from forced sale on Execution to pay debts.

WHEREAS it is expedient to afford further relief to poor Families, Preamble, and to persons who are broken down with any property. 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 hereinaster stated: Be it therefore enacted, &c., s as follows :

I. In addition to the property exempt by law from sale under execution for debt, a lot of land, dwelling house and the out-buildings thereon, tent of real property exempted, as shall not exceed in value hundred dollars, empted, as the property of a householder in actual possession thereof, shall be regards 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 premises during the minority of such children, or while said widow the widov, &c. remains unmarried, and the exempted property shall not be sold during such minority, or while the said widow remains unmarried, for the payment of any debt mentioned in the first section of this Act; Provided, Proviso. nevertheless, that said widow or some one of such children must actual-20 ly occupy and possess the homestead in order to render it exempt as as aforesaid.

III. The head of any family, or any householder, wishing to avail himself of the benefits of this Act, may fyle a certificate by him signed, Description of declaring such wish, and describing the property with the Register of which exemp-25 Deeds in the County where the same is situate; and upon receiving the tion is claimed fees now allowed for recording deeds, such Register shall record the to be registersame in a book provided for that purpose, and known as the "Home-ed. stead Exemption Book;" and so much of the property in said 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 cebt, contracted jointly or severally, by the person signing such certificate, after the date of the recording thereof: and the record in such Regis er's office shall be prima facie evidence that the certificate purporting to be there recorded, was made, signed and filed, as appears 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 exemption.

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. when the creditor alleges the property to be above the limited value.

V. When property exempted as aforesaid is alleged by a creditor to 5 hundred dollars, it may be seized on be of greater value than 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 to 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 is it, with a notice that unless the execution debtor pay to the Sheriff

ty cannot be divided.

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 M No sale unless execution: Unless upward of \$ is bid there shall be no sale, and more than the the Sheriff shall return the execution unsatisfied for want of property. amount is bid. The costs of thus selling a homestead shall be included in the costs upon

batemexe Costs.

the execution.

VI. The Provisions of this Act shall not impair or affect any 23 This act not to mechanic's or labourer's lien for work done or labour performed on the affect debts contracted for premises thus to be exempted from sale under execution for debt; nor the property, chall is a second of the property. 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, as provided in section three, or for taxes.