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No. 88.

1st Session 5th Parliament, 18 Victoria 1854.

BILL.

An Act to 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.

QUEBEC,

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

(50)

[1854

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 age, poverty, or disease ;
as also to secure the possession of a homestead to Widows and Orphans
in such cases as are hereinafter stated : Be it therefore enacted, &c.,
5 as follows :

I. In addition to the property exempt by law from sale under execu- A certain ex-
tion for debt, a lot of land, dwelling house and the out-buildings thereon, tent of real
or so much thereof as shall not exceed in value hundred dollars, property ex-
the property of a householder in actual possession thereof, shall be empted, as
10 exempt from seizure or levy upon any execution issued on a judgment regards debts
recovered upon or for any debt contracted jointly or severally, after the contracted
first day of January one thousand eight hundred and fifty five. after 1854.

II. The widow and minor children of any person deceased, who held The same pro-
property exempted, as aforesaid, may continue to hold the exempted erty exempt
15 premises during the minority of such children, or while said widow when held by
remains unmarried, and the exempted property shall not be sold during the widow, &c.
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.
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 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 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 register-
same 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 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 facie* evidence that the certificate pur-
porting 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 mort-
tained 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 be 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 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 the debtor \$ of the proceeds, which shall be exempt from execution for one year thereafter, and apply the balance towards satisfying the 22 execution: Unless upward of \$ is bid there shall be no sale, and the Sheriff shall return the execution unsatisfied for want of property. The costs of thus selling a homestead shall be included in the costs upon the execution.

If the property cannot be divided.

No sale unless more than the exempted amount is bid. Costs.

This act not to affect debts contracted for the property, &c. VI. The Provisions of this Act shall not impair or affect any 25 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, as provided in section three, or for taxes. 30