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2nd Session, 3rd Parliament, 12 Victoria, 1849

BILL.

An Act to facilitate the settlement of
uncultivated Lands in the Townships
of Lower Canada, and for other pur-
poses therein mentioned.

Received and Read a first time, Tuesday, Janu-
ary 23, 1849

Second Reading, Monday, February 12, 1849

Mr. FORTIER.

15.

BILL.

An Act to facilitate the settlement of uncultivated lands in the Townships of Lower Canada, and for other purposes therein mentioned.

WHEREAS it is expedient to adopt Preamble every possible means to facilitate the settlement of uncultivated lands in the Townships of Lower Canada, and a large portion of the said Townships is in the same state as it was when Letters Patent were granted to divers persons, containing conditions that have not been fulfilled, and a great number of lots have been purchased for the sole purpose of cutting lumber thereon, and it is necessary for the advancement and prosperity of Lower Canada that the said lands be cleared and cultivated :—Be it therefore enacted, &c.

15 And it is hereby enacted by the authority of the same, That all persons being in possession of any Township, or of any lot, half lot or parcel of land in any Township, shall, after having reserved a quantity of land sufficient for their settlement and that of their children, not exceeding Parties in possession of Township lands required to sell such portions thereof as they do not require for their own use
 acres for each of their children, and cultivated or caused to be cultivated by their children or servants, be held and obliged to sell the lots, half lots or parcels of land remaining in such Township, at the same price, and on the same conditions as are or shall be demanded by the Provincial Government for
 20 Crown Lands in the same locality.

II And be it enacted, That all persons having lands in their possession in the Townships of Lower Canada, whether they have If they refuse they shall forfeit the same.

obtained the same directly from Her Majesty's Government or by inheritance or purchase, shall, and they are hereby required to sell such lots, half lots or parcels of land on the terms and conditions above mentioned, 5 and every person who shall refuse to sell any lot, half lot or parcel of land, when thereunto required by any party, who shall be solvent or shall furnish good and sufficient security for the payment of the price or sum required 10 for such lot, half lot or parcel of land, shall, on conviction before one of Her Majesty's Courts of Queen's Bench for the District sitting in Inferior Term, or one of the Circuit Courts, of having refused to sell such lot, 15 half lot or parcel of land, forfeit the same, and the said lot, half lot or parcel of land, shall, after Judgment shall have been rendered by such Court, form part of the lands of the Crown, and the Commissioner of 20 Crown Lands is hereby authorized to take possession thereof, and dispose of the same as of other unconceded Crown Lands; Provided always, that the party to whom the purchase of such lot, half lot or parcel of 25 land shall have been denied shall have the right of pre-emption on conforming to the rules and regulations of the Crown Lands Department.

Persons who have settled on lands without consent of proprietors thereof shall not be dispossessed thereof, provided they pay the Government price for the land

III And whereas certain persons have settled 30 on lots or parcels of land in the Townships, and have cleared or partly cleared and cultivated such lots or parcels of land, and do reside thereon, without the consent of the proprietors thereof or of their Agents, 35 Be it therefore enacted, That it shall not be lawful to dispossess such persons of the said lots, or parcels of land, provided they shall pay to the proprietors of the lots or parcels of land held by them, the price required by the 40 Government for each superficial acre, and on the same terms and conditions, notwithstanding any promise of sale that may have been made to them; and on the refusal of the proprietor to sell such lot, half lot or parcel of land, 45

he shall on a complaint or action being brought before one of Her Majesty's Courts of Queen's Bench for the District sitting in Inferior Term, or any Circuit Court, and after
 5 due proof made, forfeit such lot, half lot or parcel of land, which shall become vested in the Crown and placed at the disposal of the Crown Lands Department, as aforesaid; Pro-
 10 vide: always, that the possessor of such lot, half lot or parcel of land shall retain his right of pre-emption.

IV. And be it enacted, That the vendees shall respectively within
 clear and cultivate, or caused to be cleared
 15 and cultivated by their children or servants, A certain number of acres of land to be cleared by the vendees acres of land, and construct thereon a house for their residence, and it shall be lawful for the vendor of such lot, half lot or parcel of land to bring an action
 20 in one of Her Majesty's Courts aforesaid, to eject the vendee, and take possession of the land, if the conditions above mentioned be not fulfilled by the vendee.

V. And whereas it is necessary to estab-
 25 lish the legal mode of proceeding against parties refusing to sell lots, half lots and parcels of land in the Townships, on the conditions and at the price above mentioned, Be it enacted, That the declaration shall be in
 30 the form followed in the Inferior Term of Her Majesty's Court of Queen's Bench, and in the Circuit Courts, and shall conclude for the forfeiture of such lot, half lot or parcel of land, specifying the name of the Town-
 35 ship and the number and range of such lot, half lot or parcel of land. Mode of proceeding against parties refusing to sell lots

VI. And be it enacted, That it shall be the duty of the Clerk of Her Majesty's Court of Queen's Bench, sitting in Inferior Term,
 40 or of the Circuit Court in which any such judgment of forfeiture shall have been rendered, to transmit within fifteen days from the rendering thereof, to the Commissioner A copy of judgment of forfeiture to be transmitted to Commissioner of Crown Lands

of Crown Lands, a certified copy of such judgment, under a penalty of

Proprietors of
Townships
Sec. 4. to make
a road in each
Taus. hereof

VII. And whereas the want of communication roads in the said Townships is one of the causes which prevent the settlement thereof, Be it enacted, That the proprietors of Townships, or of lots, half lots or parcels of land in the Townships, shall cause to be made in each range of the said Townships a road of the width of forty feet, so soon as such road shall have been ordered by the Municipal Council of such Township, or of any adjacent Township, or by a Court of Quarter Sessions of the District; and after a *procès verbal* shall have been obtained by the parties praying for such road, who shall not be less than ten in number, it shall be the duty of the Inspector of Roads for the Township to order the making of the said road; and on the refusal of the proprietor or grantee of such Township, or of any lot, half lot or parcel of land therein, to make the road ordered to be made in conformity with the *procès verbal* obtained as aforesaid, the said Inspector shall, after having obtained an order from the Justice of the Peace resident in the Township, or in the County wherein such Township, lot, half lot or parcel of land shall lie, cause such quantity of wood or land to be sold as shall be necessary for the making of the said road, and shall return the surplus, if any, to the proprietor, after deducting expenses

Sec. of 1d per
acre to be levied
on proprietors of un-
occupied
lands

VIII. And be it enacted, That a tax of one penny per acre shall be levied on all proprietors of unoccupied and uncultivated Townships, lots, half lots or parcels of land wherein roads have been or shall be laid out and opened at the cost of the Province, for the maintaining of such roads; and in default of payment of such tax by the proprietor to such person as shall be appointed for that purpose, it shall be the duty of the Commissioners or Public Works, or of the person

appointed to collect the said taxes, to cause to be sold, after judgment rendered by the Court of Quarter Sessions of the District wherein such Township, lot, half lot or parcel of land shall lie, such quantity of land, or of wood as shall be, as nearly as possible, sufficient to pay the said tax and the costs; but if there be any surplus, it shall be returned to the proprietor of such Township, lot, half lot or parcel of land, or to his agent.

IX. And be it enacted, That in case the proprietor of such Township, lot, half lot or parcel of land shall not reside in the District in which such Township, lot, half lot or parcel of land shall lie, the writ of summons may be validly served on his agent or attorney.

Provision for service of writ of summons in case of non-residence of proprietor in the District

X. And be it declared and enacted, That all lots or parcels of land which shall not have been occupied before the passing of this Act, shall be subject to assessment and taxation as aforesaid from and after the first day of November next.

Lots, &c., unoccupied before the passing of this Act subject to taxation after 1st Nov next

XI. And be it enacted, That all proprietors of Townships, lots, half lots or parcels of land, shall furnish to the Secretary-Treasurer of the Municipality of the County or Township a report, with a schedule, together with an affidavit of such proprietor, and a map or plan, certified by a sworn Surveyor, of all the unoccupied lands held by them, designating the same by concessions and numbers, or otherwise.

Proprietors to furnish a Report and Schedule of unoccupied lands held by them

XII. And be it enacted, That if the proprietor or proprietors of such land shall refuse or neglect to make or cause to be made, any report required by this Act before the said first day of November next, he, she or they shall incur and pay for such refusal or neglect a penalty of two hundred pounds, and shall for each and every year until such report shall be made, incur for such negligence

Penalty on proprietors neglecting to make the report required by this Act.

or refusal a further penalty of one hundred pounds; and the payment of any such penalty or penalties shall not be considered as a discharge from any assessments, dues or arrears payable on such lands.

5

Penalties
how recoverable

XIII. And be it enacted, That the several penalties and forfeitures mentioned in the next preceding section shall be recoverable on plaint or information before any three of Her Majesty's Justices of the Peace for the 10 District wherein the lands in question shall lie, and shall be levied by warrant under the hands of two of the Justices before whom such plaint or information shall have been tried, addressed to the Sheriff of the said 15 District, and directing the said Sheriff to levy of and from the goods and chattels of the person or persons convicted on such plaint or information within his District, the amount of such penalties and forfeitures, and the 20 costs of such conviction, and to return the said warrant and the monies levied by virtue thereof, to the Treasurer of the Municipality of the County or District, on such day as shall be appointed, but which shall not be 25 later than one calendar month from the date of such warrant; and the said monies shall be applied in the same manner as other monies levied by assessment for the general use of such Municipality.

30

Provision in
case of Sheriff
making a re-
turn that par-
ty convicted
hath no mova-
ble property
in his Dis-
trict

XIV. And be it enacted, That if the Sheriff shall make a return on the said warrant that the person or persons so convicted have no movable property within his District, then, and in such case, it shall be lawful for 35 the Justices of the Peace for the said District, to issue a similar warrant addressed to the Sheriff against the lands and tenements of the said person or persons, situate in the said District, which said warrant shall be 40 made returnable within four months from the date thereof; and the Sheriff shall publicly announce the sale of the said lands, and sell the same, in the same manner as is now pro-

vided with respect to the public announcement and sale of lands under and by virtue of a writ of *Fieri Facias de terris*.

XV. And be it enacted, That all sales, or
 5 promises of sale, which shall have been made
 by proprietors of Townships, lots, half lots
 or parcels of land, and which shall not have
 been made in conformity with the tenure in
 Free and Common Soccage, are hereby de-
 10 clared null, and shall be considered as not
 agreed to by the parties interested therein.

Sales. &c., not
 in conformity
 with tenure in
 free and com-
 mon soccage,
 null and void.