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No. 106.

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3d Session. 3d Parliament, 13 & 14 Victoria, 1850:

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**BILL.**

An Act to prevent the Seizure and Sale  
of the Homestead in satisfaction of  
Debt, in certain cases and upon cer-  
tain conditions.

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Received and Read a first time, Thursday, 27th  
June, 1850.

Second Reading, Wednesday, 10th July, 1850.

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Hon. Mr. CAMERON (Kent).

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## BILL.

An Act to prevent the Seizure and Sale of the Homestead in satisfaction of Debt, in certain cases and upon certain conditions.

**W**HEREAS it is in accordance with humanity and sound policy to exempt the homestead of the debtor from seizure and sale, provided the value of such homestead do not exceed a certain sum:—Be it therefore enacted, &c. Preamble,

That in addition to the property exempt by law from sale under execution, there shall be exempt from such sale for debts contracted after this Act shall take effect, real estate not exceeding in value two hundred and fifty pounds, owned by the debtor, being a householder and having a family. Certain real estate exempted from seizure and sale.

II. And be it enacted, That to entitle a debtor to the benefit of such exemption, a description of the property claimed to be exempt, with a notice of such claim, executed in Lower Canada before notaries, and in Upper Canada signed by the debtor and proved or acknowledged as deeds are required by law to be proved or acknowledged to entitle them to be registered, shall be delivered to the officer having such execution in his hands for collection, prior to any sale of such real estate by virtue thereof; and in case such real estate shall have been levied on and advertised for sale prior to the delivery of such description and notice to the officer, the debtor shall pay the fees and expenses of such levy and advertisement. Description and notice to be given to the seizing officer.

III. And be it enacted, That in case a description of the property claimed to be exempt, with notice of such claim, executed before notaries or proved or acknowledged as above provided, shall be recorded in the records of deeds in the Registry office of the County where the same may be situated, prior to the registering of the judgment in the same County, the debtor shall be entitled to the benefit of such exemption without delivering the description or notice, or paying fees or expenses as mentioned in the second section of this Act. Unless such description and notice shall have been previously registered.

IV. And be it enacted, That any creditor having a judgment against such householder, which, independent of the provisions of this Act, would be a lien, hypothec or Case of creditors having hypothec, &c., on

the property provided for.

privileged claim on the real estate claimed to be exempt, may cause such real estate to be advertised and offered for sale under execution upon such judgment in the manner provided by law, and if not more than two hundred and fifty pounds shall be bid therefor, the sale shall be stopped, and the amount so bid shall be returned with the execution, which sum shall be considered for one year thereafter the value of such real estate; if more than two hundred and fifty pounds shall be bid and the property bought by or in behalf of the debtor, the excess of such bid only over two hundred and fifty pounds shall be required to be paid; and duplicate certificates of the facts of such sale shall be made by the officer conducting the same, one of which shall be filed in the Registry office of the County, and the other delivered to such debtor; no conveyance of such real estate shall be made in such case, and the same shall thereafter be exempt from sale for the same debt or any part thereof.

If the property be bought by the debtor.

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If bought by any other party than the debtor it may be redeemed.

V. And be it enacted, That in case such real estate shall be bought, not by or in behalf of the debtor, the officer making such sale shall state in the certificate thereof, in addition to what is now required to be stated therein, that the real estate so sold may be redeemed by or in behalf of the judgment debtor, or the widow, heirs or devisees of such debtor, within one year from the time of such sale, on payment to the purchaser, his personal representatives or assigns, or to the officer who made such sale, for the use of such purchaser, of the excess bid on such sale over two hundred and fifty pounds, with the interest on such excess from the time of such sale, at the rate of *ten* per cent. a year, and such redemption may be made by or in behalf of the debtor, or the widow, heirs or devisees of such debtor accordingly; and upon such redemption being made the sale of such real estate and the certificate of such sale shall be null and void.

Purchaser to pay down excess over £250 but no more.

VI. And be it enacted, That the sum required to be paid by the purchaser at the time of a sale, in pursuance of the last section, shall be the excess only which shall be bid for the premises over two hundred and fifty pounds, and such sum shall be applied first to discharge the fees and expenses of such sale, and the residue in reduction, or so far as may be necessary in satisfaction of the amount due on the execution.

No deed to be executed to purchaser until he has paid the £250 for the debtor.

VII. And be it enacted, That no deed shall be executed by the officer making such sale, to the purchaser nor to any person who may have acquired the rights of such purchaser, in the manner provided by law or otherwise, until the sum of two hundred and fifty pounds shall be paid to such officer by the person demanding the deed, for the use of the judgment debtor; and in case the same shall not be paid within eighteen months from the time

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of the sale, the certificate given in pursuance thereof, shall be null and void.

VIII. And be it enacted, That the officer receiving such sum shall pay the same to the judgment debtor, and the same and any securities which shall be taken therefor and any income thereof, shall not be liable to be taken for any debt of such judgment debtor within one year from the time when the same shall be paid to such debtor.

The £250 to be paid to the debtor, and exempt from seizure for a certain time.

IX. And be it enacted, That the crops which may be raised upon, and the rents, issues and profits which may be derived from the real estate claimed to be exempt from execution in pursuance of this Act, shall not be liable to be taken to satisfy any debt of such judgment debtor, within one year from the time when such crops may be secured from the land, or the rents, issues or profits may be received by the debtor; provided a description of the real estate and notice of such claim shall be received, as provided in the third section of this Act, before such crops shall be secured, or such rents, issues or profits received by the debtor.

Crops, rents, &c., of exempted land to be also exempt on certain conditions.

X. And be it enacted, That this Act shall have force and effect upon, from and after the first day of one thousand eight hundred and fifty and not before:

Commencement of Act.