

No. 110.

4th Session, 8rd Parliament 14 Victoria, 1851.

BILL.

**An Act to prevent fraud in the sale and
exchange of horses in Lower Canada.**

**Received and read a first time, Wednesday, 11th
June, 1851.**

Second reading, Wednesday, 18th June, 1851.

Colonel Grey.

TORONTO: PRINTED BY LOVELL AND GIFFON.

BILL.

An Act to prevent fraud in the sale and exchange of horses in Lower Canada.

WHEREAS differences and litigation frequently arise out of the sale or exchange of horses, and it is expedient to specify the causes for which and the time within which it shall and may be lawful to return any horse obtained by purchase or exchange, if such horse prove to be unsound, and to define unsoundness: Be it therefore enacted, &c. Preamble.

That any horse labouring under or having any one or more of the diseases, evils, or ailments hereinunder set forth shall be held and considered to be unsound, and that each of the undermentioned diseases or ailments do constitute and shall be held to constitute unsoundness, that is to say: Amaurosis, Cataract, Chronic Ophthalmia, Epilepsy, Glanders, Farcy, Brokenwind, Chronic Bronchitis, Roaring, Crib Biting, Hernia, Prolapsus Uteri, Fistula of any part, Indolent or Malignant Tumors, Curbs, Bone Spavin, Blood Spavin, Splint, Ringbone, Foot Founder, Pumiced Foot, Sandcrack, Quittor, False Quarter, Navicular Disease, Ossified Lateral Cartilages, Mange, Thrush, Grease, Chronic Enlargement of the Sheaths of the Tendons. What diseases shall constitute unsoundness.

II. And be it enacted, That in every sale, exchange or transfer for a valuable consideration of any horse, unless there be a specific stipulation, bargain, agreement or provision to the contrary, it shall be a condition of the sale, exchange or transfer that the horse or horses sold, exchanged or transfered, is or are warranted by the vendor or person delivering, in exchange or transferring, to be sound at the time of such sale, exchange or transfer: Provided nevertheless, that no stipulation, bargain, agreement or provision shall exclude any sale, exchange or transfer from the operation of the foregoing enactment, unless the vendor or person delivering in exchange or transferring the horse, shall in every case at the time of the sale or delivery make known the particular disease, evil or ailment which the horse then sold, exchanged or transferred suffers from or labors under, and against which he gives no warranty. Warranty to be presumed in every case unless it be stipulated that there shall be none. Proviso: in such case the particular disease must be declared.

III. And be it enacted, That, except in the case of express mention of some disease or ailment and refusal to guarantee against the same as aforesaid, every sale, Vendor may return the unsound horse

and obtain his money back. agreement or bargain for the sale, purchase, exchange or transfer of any horse purchased or received in exchange, or in any way obtained for a valuable consideration, which shall prove to be unsound, shall be absolutely null and void, and such horse so proving to be unsound, shall and may be returned to the vendor or person having delivered or transferred the same, and the person so having sold, delivered in exchange or otherwise transferred such unsound horse, shall be bound to return the price paid or horse delivered in exchange, or other consideration given therefor; failing which, a redhibitory action shall lie at the suit of any party interested to compel the refunding of the price paid, or of any other valuable consideration, as the case may be, upon proof of such party having returned or offered to return the horse purchased or obtained in exchange. 5 10 15

Within what time the horse must be offered back and the action brought. Proviso: if the horse be removed to another locality, &c. IV. And be it enacted, That such redhibitory action may be brought at any time within thirty days from the delivery of the horse, in cases of chronic ophthalmia and epilepsy, and within nine days in case of any other disease, evil or ailment constituting unsoundness; Provided always, that if the sale or transfer have taken place in a locality in which the vendor or person delivering, exchanging or transferring doth not reside, or if the horse received and proving unsound hath been taken out of the locality in which such vendor or person having transferred such horse shall have his domicile, to any other locality, then and in that case the delay for offering to return such horse, and for bringing the said redhibitory action to recover the price or consideration thereof, shall be extended by one day for every fifteen miles of distance between the domicile of the vendor or person transferring or delivering such horse and the said other locality to which such horse may have been taken. 20 25 30

Word "horse" interpreted. V. And be it enacted, That the word "horse" in this Act shall include mules and asses, and geldings as well as males and females, and animals of the species aforesaid of whatever age. 35

Extent of Act. VI. And be it enacted, That this Act shall apply only to Lower Canada. 40