

No. 7.

3rd Session, 6th Parliament, 23rd Victoria, 1860.

BILL.

An act to exempt Homesteads and certain other property under a certain value from sale under execution.

Received and read, first time, Friday, 2nd March,
1860

Second reading, Monday 5th March, 1860.

Mr. BELLINGHAM.

QUEBEC:

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An Act to exempt Homesteads and certain other property under a certain value from sale under execution.

WHEREAS, to prevent the ruin of families, and to secure a home to Widows and Orphans, it is expedient to exempt homesteads to a certain value and under certain circumstances, from sale under forced execution: Therefore, Her Majesty, &c., enacts as follows: Preamble.

- 5 I. In addition to the property now exempt by law from sale under execution, there shall be exempt by law from sale on execution for debts contracted after the passing of this Act, the lot and buildings thereon occupied as a residence and owned by the debtor being a householder and having a family, to the value of six hundred dollars, and also such household furniture, farming utensils, goods and chattels, or mechanics' tools, as such judgment debtor may require to the amount of Exemption of Homestead to amount of \$600.
- 10 dollars; and such exemption shall continue after the death of such householder, for the benefit of his widow and family, provided some or one of them continue to occupy such homestead, until the youngest child become twenty-one years of age and until the death of the widow: Of certain furniture.
- 15 And no release or waiver of such exemption shall be valid unless the same be in writing, subscribed by such householder, and acknowledged in the same manner as conveyances of real estate are by law required to be acknowledged. Duration of Exemption, &c.
- 20 II. To entitle any property to such exemption, the conveyance of the same shall show that is designed to be held as a homestead under this Act; or if already purchased, or the conveyance does not show such design, a notice that the same is designed to be so held shall be executed and acknowledged by the person owning the said property, which shall contain a full description thereof, and shall be recorded in the office of What must be done to constitute any property a homestead under this Act.
- 25 the Registrar of the County or Registration Division in which the property is situate, in a book to be provided for that purpose, known as the "Homestead Exemption Book"; But no property shall, by virtue of this Act, be exempt from sale, for non-payment of taxes or assessments, or Exceptions as to certain debts.
- 30 for any debt contracted for the purchase or improvement thereof, or prior to the recording of the aforesaid deed or notice.
- III. If, in the opinion of the Sheriff holding an execution against the holder of the premises, claimed by him or her as exempt, the same are worth more than six hundred dollars, he shall summon six qualified Case where the property is worth more than \$600, provided for.
- 35 Jurors of his County or Judicial District, who shall, upon oath, to be administered to them by such Sheriff, or by a Justice of the Peace, appraise such premises; and if, in the opinion of the Jury, the property may be divided, without injury to the interests of the parties, they shall set off so much of the said premises, including the dwelling-house, as in their opinion shall be worth six hundred dollars, and the residue of said premises may be advertised and sold by such Sheriff.

- IV. In case the value of the premises is, in the opinion of the Jury, more than six hundred dollars, and they cannot be divided as provided for in the last section, they shall make and sign an appraisal of the value thereof, and deliver the same to the Sheriff, who shall deliver a copy thereof to the Execution Debtor, or to some of his family of suitable age to understand the meaning thereof, with a notice thereto attached, that unless the Execution Debtor shall pay to such Sheriff the surplus over and above six hundred dollars, within sixty days thereafter, such premises will be sold.
- The same where the property cannot be divided.
- 10 V. In case such surplus be not paid within the said sixty days, it shall be lawful for the Sheriff to advertise and sell the said premises, and out of the proceeds of such sale to pay such Execution Debtor the said sum of six hundred dollars, which shall be exempt for execution for one year thereafter, and apply the balance on such execution to the satisfaction of the judgment debt; provided that no sale shall be made, if no greater sum than six hundred dollars be bid for the property, in which case the Sheriff may return the execution for want of property whereon to levy.
- Exemption of \$600 of the price, if the property is sold by the Sheriff.
- 20 VI. The costs and expenses of selling off such homestead, and other proceedings as provided herein, shall be charged and included in the Sheriff's bill of costs, upon the said execution.
- Costs.
- VII. In cases of debtors not being owners of real estate, this Act is to apply to goods and chattels to the aforesaid amount of dollars, as described in the first section.
- Exemption when there is no homestead.
- 25 VIII. This Act shall take effect on the first day of One Thousand Eight Hundred and Sixty and not before.
- Commence ment of Act.