



1937

c 125 Execution Act

Ontario

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CHAPTER 125.

The Execution Act.

Interpreta-
tion.

1. In this Act,—

"Execu-
tion."(a) "Execution" shall include a writ of *feri facias* and every subsequent writ for giving effect thereto;

"Sheriff."

(b) "Sheriff" shall include any officer to whom an execution is directed. R.S.O. 1927, c. 112, s. 1.

EXEMPTION.

Chattels
exempt from
seizure.

2. The following chattels shall be exempt from seizure under any writ issued out of any court, namely:

Bedding.

(a) The beds, bedding and bedsteads (including cradles) in ordinary use by the debtor and his family;

Apparel.

(b) The necessary and ordinary wearing apparel of the debtor and his family;

Furniture.

(c) One cooking stove with pipes and furnishings, one other heating stove with pipes, one crane and its appendages, one pair of andirons, one set of cooking utensils, one pair of tongs and a shovel, one coal scuttle, one lamp, one table, six chairs, one washstand with furnishings, six towels, one looking glass, one hair brush, one comb, one bureau, one clothes press, one clock, one carpet, one cupboard, one broom, twelve knives, twelve forks, twelve plates, twelve teacups, twelve saucers, one sugar basin, one milk jug, one tea pot, twelve spoons, two pails, one wash tub, one scrubbing brush, one blacking brush, one wash board, three smoothing irons, all spinning wheels and weaving looms in domestic use, one sewing machine and attachments in domestic use, thirty volumes of books, one axe, one saw, one gun, six traps, and such fishing nets and seines as are in common use, the articles in this subdivision enumerated not exceeding in value \$200;

- (d) All necessary fuel, meat, fish, flour and vegetables, actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value \$80. R.S.O. 1927, c. 112, s. 2, cls. (a-d). Fuel and provisions.
- (e) One cow, six sheep, four hogs, twelve hens, and one team of horses and harness necessary for the same, in all not exceeding the value of \$400, and food therefor for thirty days, and one dog; R.S.O. 1927, c. 112, s. 2, cl. (e); 1933, c. 14, s. 2; 1936, c. 56, s. 8. Animals.
- (f) Tools and implements of, or chattels ordinarily used in, the debtor's occupation, to the value of \$200; but if a specific article claimed as exempt be of a value greater than \$200 and there are not other goods sufficient to satisfy the writ such article may be sold by the sheriff who shall pay \$200 to the debtor out of the net proceeds, but no sale of such article shall take place unless the amount bid therefor shall exceed \$200 and the cost of sale in addition thereto; Tools. Exempted article valued at over \$200.
- (g) Fifteen hives of bees. R.S.O. 1927, c. 112, s. 2, cls. (f, g.) Bees.

3. The debtor may, in lieu of tools and implements or chattels ordinarily used in his occupation referred to in clause f of section 2, elect to receive the proceeds of the sale thereof up to \$200, in which case the officer executing the writ shall pay the net proceeds of the sale if the same do not exceed \$200, or, if the same exceed \$200, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under clause f. R.S.O. 1927, c. 112, s. 3. Right of debtor to part proceeds of sale of implements.

4. The sum to which a debtor is entitled, under clause f of section 2, or under section 3, shall be exempt from attachment or seizure at the instance of a creditor. R.S.O. 1927, c. 112, s. 4. Money derived from sale of exempted goods.

5. Chattels exempt from seizure shall, after the death of the debtor, be exempt from the claims of his creditors, and his widow shall be entitled to retain them for the benefit of herself and his family, or, if there is no widow, the family of the debtor shall be entitled to them. R.S.O. 1927, c. 112, s. 5. Disposal of exempted goods after death of the debtor.

6. The debtor, his widow or family, or, in the case of Right of selection.

infants, their guardian, may select out of any larger number the chattels exempt from seizure. R.S.O. 1927, c. 112, s. 6.

Articles for which debt incurred.

7. Nothing herein shall exempt any article enumerated in clauses *c* to *g* of section 2 from seizure to satisfy a debt contracted for such article. R.S.O. 1927, c. 112, s. 7.

Sheriff may sell any lands of execution debtor, including those held in trust for him.

8. The sheriff to whom a writ of execution against lands is delivered for execution may seize and sell thereunder the lands of the execution debtor, including any lands whereof any other person is seized or possessed in trust for the execution debtor. R.S.O. 1927, c. 122, s. 8.

WRITS AGAINST LANDS AND GOODS.

From what date binding.
Rev. Stat., c. 174.

9.—(1) Subject to the provisions of *The Land Titles Act*, a writ of execution shall bind the goods and lands against which it is issued from the time of the delivery thereof to the sheriff for execution, but save as to bills of sale and chattel mortgages, no writ of execution against goods shall prejudice the title to such goods acquired by any person in good faith and for valuable consideration unless such person had, at the time when he acquired his title, notice that such writ or any other writ by virtue of which the goods of the execution debtor might be seized or attached has been delivered to the sheriff and remains in his hands unexecuted. R.S.O. 1927, c. 112, s. 9 (1); 1929, c. 35, s. 2.

Endorsement.

(2) The sheriff shall, upon the receipt of the writ and without fee, endorse thereon the day of the year, the month, the hour and the minute when the same was received.

Exception.

(3) Subsection 1 shall not apply to an execution against goods issued out of a division court, which shall bind only from the time of the seizure. R.S.O. 1927, c. 112, s. 9 (2, 3.)

Liability of land to execution.
Rev. Stat., c. 100.

10. Subject to the provisions of *The Judicature Act* and rules of court, land and other hereditaments and real estate belonging to any person indebted, shall be liable to and chargeable with all just debts, duties and demands of what nature or kind soever, owing by any such person to His Majesty or to any of his subjects, and shall be assets for the satisfaction thereof, and shall be subject to the like remedies, proceedings and process for seizing, selling or disposing of the same towards the satisfaction of such debts, duties and demands, and in like manner as personal estate is seized, sold or disposed of. R.S.O. 1927, c. 112, s. 10.

SEIZURE OF CERTAIN INTERESTS UNDER EXECUTION
AGAINST GOODS.

11. Shares and dividends, and any equitable or other right, property, interest or equity of redemption in or in respect of shares or dividends in an incorporated bank or an incorporated company having transferable shares shall be deemed to be personal property found in the place where notice of the seizure thereof is served, and may be seized under execution and may be sold thereunder in like manner as other personal property. R.S.O. 1927, c. 112, s. 11.

Shares and dividends and equitable interests therein.

12.—(1) The sheriff on being informed on behalf of the execution creditor that the execution debtor has such shares, and on being required to seize the same, shall forthwith serve a copy of the execution on the bank or company with a notice that all the shares of the execution debtor are seized thereunder, and from the time of service the seizure shall be deemed to be made and no transfer of the shares by the execution debtor shall be valid unless and until the seizure has been discharged, and every seizure and sale made under the execution shall include all dividends, premiums, bonuses or other pecuniary profits upon the shares seized, and the same shall not, after notice as aforesaid, be paid by the bank or company to any one except the person to whom the shares have been sold. R.S.O. 1927, c. 112, s. 12 (1).

Notice of seizure.

Duty of bank or company.

(2) Such seizure may be made and notice given by the sheriff where the bank or company has within his bailiwick a place at which service of process may be made, or where a share register is kept. R.S.O. 1927, c. 112, s. 12 (2); 1929, c. 35, s. 3.

How seizure made.

13. If the bank or company has more than one place where service of process may be made, and there is some place where transfers of shares may be notified to and entered by the bank or company, so as to be valid as regards the bank or company, or where dividends or profits as aforesaid on stock may be paid other than the place where service of such notice has been made, the notice shall not affect any transfer or payment of dividends or profits duly made and entered at any such other place, so as to subject the bank or company to pay twice, or so as to affect the rights of any *bona fide* purchaser, until after the expiration of a period from the time of service sufficient for the transmission of notice of service by post from the place where it has been made to such other place, which notice it shall be the duty of the bank or company to so transmit. R.S.O. 1927, c. 112, s. 13.

Provisions for the case of more than one place of service.

Mode of proceeding after sale.

14. Where any such share is sold the sheriff shall within ten days after sale serve upon the bank or company at some place where service of process may be made a copy of the execution, with his certificate endorsed thereon certifying the sale and the name of the purchaser who shall have the same rights and be under the same obligations as if he had purchased the share from the execution debtor at the time of the service of notice under section 12. R.S.O. 1927, c. 112, s. 14.

Saving of all other remedies.

15.—(1) Nothing in this Act shall affect any remedy which the execution creditor might, without this Act, have had against any such share or the dividends, premiums, bonuses or other pecuniary profits in respect thereof, and the provisions of sections 11, 12, 13 and 14 shall apply to such remedy in so far as they can be applied thereto. R.S.O. 1927, c. 112, s. 15.

Seizure and sale of shares in private company.

(2) If a sheriff seizes the shares of an execution debtor in a private company he shall first offer them for sale to the other shareholders or any one of them in such private company, and if none of them will purchase the shares for a reasonable price the sheriff may then offer the debtor's interest therein for sale to the public generally and sell and convey to the highest bidder. 1929, c. 35, s. 4.

Procedure for sale of equitable interests.

16. The procedure for seizure and sale in the case of an equitable or other right, property, interest or equity of redemption in or in respect of any share shall be the same as hereinbefore provided in the case of shares and dividends, and the same shall be held to be personal property found in the place where notice of the seizure is served. R.S.O. 1927, c. 112, s. 16.

Rights under patent of invention.

17.—(1) All rights under letters patent of invention and any equitable or other right, property, interest or equity of redemption therein shall be deemed to be personal property and may be seized and sold under execution in like manner as other personal property.

How seizable.

(2) Such seizure and sale may be made by the sheriff of any county or district having in his hands to be executed an execution against the property of the debtor who is the owner of or interested in the letters patent.

Notice of seizure.

(3) Notice of the seizure shall forthwith be given to the Patent Office and the interest of the debtor shall be bound from the time when the notice is received there. R.S.O. 1927, c. 112, s. 17.

18. The sheriff may seize and sell any equitable or other right, property, interest or equity of redemption in or in respect of any goods, chattels or personal property, including leasehold interests in any land of the execution debtor, and, except where the sale is under an execution against goods issued out of a division court, the sale shall convey whatever equitable or other right, property, interest or equity of redemption he had or was entitled to in or in respect of the goods, chattels or personal property at the time of the delivery of the execution to the sheriff for execution, and where the sale is under an execution against goods issued out of a division court the sale shall convey whatever equitable or other right, property, interest or equity of redemption the debtor had or was entitled to in or in respect of the goods, chattels or personal property at the time of the seizure. R.S.O. 1927, c. 112, s. 18.

19.—(1) The sheriff shall seize any money or bank-notes, including any surplus of a former execution against the debtor, and any cheques, bills of exchange, promissory notes, bonds, mortgages, specialties or other securities for money belonging to the person against whom the execution has been issued, and, subject to the provisions of *The Creditors Relief Act*, shall pay or deliver to the party who sued out the execution the money or bank-notes so seized, or a sufficient part thereof, and hold such cheques, bills of exchange, promissory notes, bonds, mortgages, specialties or other securities for money as security for the amount directed to be levied, or so much thereof as has not been otherwise levied or raised, and the sheriff may sue in his own name for the recovery of the sums secured thereby. R.S.O. 1927, c. 112, s. 19.

(2) The sheriff may seize any book debts and other choses in action of the execution debtor and may sue in his own name for the recovery of the moneys payable in respect thereto.

(3) If it appears to the sheriff that an attempt to collect the book debts, choses in action or the securities for the money, referred to in subsections 1 and 2 would be less beneficial to the creditors than a sale thereof, the sheriff may proceed to sell such book debts, choses in action and securities by public auction in the same way as the debtor's goods may be sold when taken in execution. 1929, c. 35, s. 5.

(NOTE—As to proceedings under division court executions, see also *The Division Courts Act*, Rev. Stat. c. 107.)

20. The payment to the sheriff by the person liable on such cheque, bill of exchange, promissory note, bond, mortgage, specialty or other security, with or without suit, or

recovery from him, shall discharge him to the extent of such payment or recovery from his liability thereon. R.S.O. 1927, c. 112, s. 20.

Payment of
proceeds.
Rev. Stat.,
c. 126.

21. Subject to the provisions of *The Creditors Relief Act* the sheriff shall pay over to the party who sued out the execution the money so paid or recovered, or a sufficient sum to discharge the amount directed to be levied, and if, after satisfaction thereof and of the fees, poundage and expenses of the sheriff, a surplus remains the same shall be paid to the party against whom the execution issued. R.S.O. 1927, c. 112, s. 21.

Indemnity
of sheriff.

22. A sheriff shall not be bound to sue any person liable upon such cheque, bill of exchange, promissory note, bond, mortgage, specialty or other security unless the party who sued out the execution enters into a bond with two sufficient sureties to indemnify the sheriff from all costs and expenses to be incurred in the prosecution of the action, or to which he may become liable in consequence thereof, and the expenses of the bond, not exceeding \$5, may be deducted from any money recovered in the action. R.S.O. 1927, c. 112, s. 22.

When sheriff
obliged to
seize goods
claimed by
third parties.

23.—(1) A sheriff shall not, without written instructions and a bond as hereinafter mentioned, be obliged to seize property which is in the possession of a third person claiming the same, and not in the possession of the debtor against whose property the execution was issued.

Instructions.

(2) The instructions shall specify the property in such a way as to enable the sheriff to identify it.

Bond.

(3) The bond shall be a bond of indemnity to the sheriff and his assigns, with two sufficient sureties who shall justify in double the value of the property, and the value shall be stated in an affidavit by the creditor or his solicitor or agent attached to the bond.

Conditions
of bond.

(4) The bond shall be assignable to the claimant, and shall be conditioned that the persons executing the same shall be liable for the damages, costs and expenses which the sheriff or the claimant may be put to by the seizure and subsequent proceedings, including interpleader proceedings, if any, and which he does not recover from other persons who ought to pay the same.

Settlement
by judge.

(5) If the sheriff is not satisfied with the bond offered the matter in difference shall be determined by a judge of the county or district court of the county or district.

(6) Nothing in this section shall limit the right of the sheriff to apply for relief by interpleader. R.S.O. 1927, c. 112, s. 23. Right of sheriff to interpleader.

24.—(1) If a sheriff is informed on behalf of the execution creditor that the execution debtor is a mortgagee of land and that the mortgage is registered, or that he is entitled to receive a sum of money charged upon land by virtue of a registered instrument, and if the sheriff is required on behalf of the execution creditor to seize the mortgage or charge, and is furnished in writing with the information necessary to enable him to give the notice hereinafter mentioned, he shall, upon payment of the proper fees, forthwith deliver or transmit to the registrar or master of titles in whose office the mortgage or other instrument is registered, who shall forthwith register the same, a notice in the form or to the effect following: Taking money secured by mortgage under execution.

To the Registrar of (or as the case may be)
 By virtue of an execution issued out of the Supreme Court of Ontario Form of sheriff's notice to registrar.
 whereby I am commanded to levy of the goods and chattels of (or as the case may be)
 A. B. \$ for debt, and \$ for costs
 lately adjudged to be paid by A.B. to C.D., besides the costs of execution, I have this day seized and taken in execution all the estate, right, title and interest of A.B. in a mortgage made by X.Y. to A.B., bearing date the day
 of , 19, and registered in the registry office for the County of (or as the case may be) on the day
 of 19, as number (or the said mortgage or other instrument may be described in any other manner by reference to dates, parties and the land covered as will enable the notice to be registered against the land therein described) and in the money secured thereby, and this notice is given for the purpose of binding the interest of A.B. under sections 24 to 28 of *The Execution Act*.

Dated this day of , 19
(Signed) M. N.,
 Sheriff of the County (or District) of

(2) Upon registration of the notice the interest of the execution debtor in the mortgage or other instrument, and in the land therein described, and in the money thereby secured and in all covenants and stipulations for securing payment thereof, shall be bound by the execution, and such registration shall be notice of the execution and seizure to all persons who may thereafter in any way acquire any interest in the mortgage, land, money or covenants, and the rights of the sheriff and of the execution creditor shall have priority over the rights of all such persons subject, as regards the mortgagor or person liable to pay the money secured by the mortgage or charge, to section 25. R.S.O. 1927, c. 112, s. 24. Effect of registration of sheriff's notice to registrar.

25.—(1) A notice similar to that mentioned in section 24 shall also be served upon the mortgagor or the person who Notice to mortgagor.

is liable to pay the money secured by the registered instrument, and after such service the person served shall pay to the sheriff all money then payable and, as it becomes due, all money which may become payable to the execution debtor so far as may be necessary to satisfy the execution.

Mode of effecting service.

(2) Service of the notice may be made personally, or by leaving it at the dwelling-house of the person to be served with a grown up person residing there, or by registered post to the proper address of the person to be served.

Payments made after notice.

(3) Any payment made after service of the notice or after actual knowledge of the seizure shall be void as against the sheriff and the execution creditor. R.S.O. 1927, c. 112, s. 25.

Sheriff enforcing mortgage.

26. In addition to the remedies herein provided the sheriff may bring an action on any mortgage or other instrument seized under the provisions of this Act for the sale or foreclosure of the land covered by it, and shall be entitled to a bond of indemnity as in the cases provided for in section 22. R.S.O. 1927, c. 112, s. 26.

Indemnity.

When seizure may be vacated.

27.—(1) Upon an execution, notice whereof is registered under section 24, expiring or being satisfied, set aside or withdrawn, a certificate of such fact shall be given by the sheriff or by the execution creditor, and the same or the order to set aside, as the case may be, may be registered, and thereupon such seizure shall be vacated and be at an end.

Verification of order and certificates.

(2) The order or the certificate of the sheriff shall not require verification.

Idem.

(3) The certificate of the execution creditor shall be verified by the oath of a subscribing witness as in the case of other instruments affecting land. R.S.O. 1927, c. 112, s. 27.

Fees of registrar and sheriff.

28. For the registration of a notice under section 24 or of a certificate under section 27 the registrar or master shall be entitled to a fee of fifty cents, and for every notice of seizure under section 24 the sheriff shall be entitled to a fee of \$1, and for every certificate under section 27 to a fee of seventy-five cents. R.S.O. 1927, c. 112, s. 28.

Taking chattel mortgage in execution.

29. Where an execution debtor is a mortgagee of chattels, and the mortgage is registered as required by law, sections 24, 25, 26, 27 and 28 shall be applicable, except that the notice to be given by the sheriff shall be delivered or transmitted to the clerk of the county or district court or other officer in whose office the chattel mortgage is registered. R.S.O. 1927, c. 112, s. 29.

EQUITY OF REDEMPTION IN LAND.

30. Where the word "mortgagor" occurs in sections 31, 32 and 33, it shall be read and construed as if the words "his heirs, executors, administrators or assigns, or person having the equity of redemption" were inserted immediately after the word "mortgagor." R.S.O. 1927, c. 112, s. 30. ^{Interpretation.}

31.—(1) The sheriff to whom an execution against the lands and tenements of a mortgagor is directed may seize, sell and convey all the interest of the mortgagor in any mortgaged lands and tenements. ^{The interest of a mortgagor.}

(2) The equity of redemption in freehold land shall be saleable under an execution against the lands and tenements of the owner of the equity of redemption in his lifetime, or in the hands of his executors or administrators after his death, subject to the mortgage, in the same manner as land and tenements may now be sold under an execution. ^{Equity of redemption.}

(3) Where more mortgages than one of the same lands have been made to the same mortgagee or to different mortgagees, subsections 1 and 2 shall apply, and the equity of redemption shall be saleable under an execution against the lands and tenements of the owner, subject to the mortgages, in the same manner as in the case of land subject to one mortgage only. R.S.O. 1927, c. 112, s. 31. ^{Selling lands subject to more than one mortgage in execution.}

32. The effect of the seizure or taking in execution, sale and conveyance of mortgaged lands and tenements shall be to vest in the purchaser, his heirs and assigns, all the interest of the mortgagor therein at the time the execution was placed in the hands of the sheriff, as well as at the time of the sale, and to vest in the purchaser, his heirs and assigns, the same rights as the mortgagor would have had if the sale had not taken place, and the purchaser, his heirs or assigns, may pay, remove or satisfy any mortgage, charge or lien which at the time of the sale existed upon the lands or tenements so sold in like manner as the mortgagor might have done, and thereupon the purchaser, his heirs and assigns, shall acquire the same estate, right and title as the mortgagor would have acquired in case the payment, removal or satisfaction had been effected by the mortgagor. R.S.O. 1927, c. 112, s. 32. ^{Effect of sale.}

33. A mortgagee of land, or the executors, administrators or assigns of a mortgagee, being or not being the execution creditor, may be the purchaser at the sale, and shall acquire ^{Effect of purchase by mortgagee or execution creditor.}

the same estate, interest and rights thereby as any other purchaser, but in that event he or they shall give to the mortgagor a release of the mortgage debt, and if another person becomes the purchaser, and if the mortgagee, his executors, administrators or assigns shall enforce payment of the mortgage debt by the mortgagor the purchaser shall repay the debt and interest to the mortgagor, and in default of payment thereof within one month after demand the mortgagor may recover the debt and interest from the purchaser, and shall have a charge therefor upon the mortgaged land. R.S.O. 1927, c. 112, s. 33.

CONTINGENT INTERESTS.

Liability to execution.
Rev. Stat.,
c. 152.

34.—(1) Any estate, right, title or interest in land which, under section 9 of *The Conveyancing and Law of Property Act*, may be conveyed or assigned by any person, or over which he has any disposing power which he may, without the assent of any other person, exercise for his own benefit, shall be liable to seizure and sale under execution against such person in like manner and on like conditions as land is by law liable to seizure and sale under execution, and the sheriff selling the same may convey and assign it to the purchaser in the same manner and with the same effect as the person might himself have done.

Except inchoate right to dower.

(2) An inchoate right to dower shall not be liable to seizure or sale under execution.

Property subject to power of appointment.

(3) Property over which a deceased person had a general power of appointment exercisable for his own benefit without the assent of any other person where the same is appointed by his will may be seized and sold under an execution against the personal representative of such deceased person after the property of the deceased has been exhausted. R.S.O. 1927, c. 112, s. 34.

CHURCH PEWS AND SITTINGS.

Interest in pew or sitting.

35.—(1) The interest of any person derived by deed, lease or license in writing from the churchwardens or other authorities of any church in a pew or sitting, if such interest is assignable by the holder thereof, may be sold under execution at the suit of such churchwardens or other authorities for arrears of rent or other charge to which such pew or sitting is subject, or which the holder thereof may have agreed to pay or for which he may be liable, or at the suit of any creditor of such holder, and such churchwardens or other

authorities may become purchasers at such sale on behalf of the church, and may relet or sell the right so acquired.

(2) The sheriff may execute a deed to the purchaser of the interest so sold, and the churchwardens or other authorities shall, on production of such deed, give effect to the same upon payment of any arrears of rent or charge then due. ^{Deed.}

(3) Such sale shall be subject to any continuing rent or charge of such pew or sitting previously stipulated for or imposed, and shall not prejudice the right to impose increased rent or charges on such pew or sitting pursuant to *The Church Temporalities Act*, or any other law or custom. ^{Saving.} R.S.O. 1927, c. 112, s. 35. ^{3. V., c. 74.}

EXECUTIONS AGAINST EXECUTORS.

36. The title and interest of a testator or intestate in land may be seized and sold under an execution upon a judgment recovered by a creditor of the testator or intestate against his executor or administrator in the same manner and under the same process as upon a judgment against the deceased if he were living. <sup>How execution enforce-
able against
executor,
etc.</sup> R.S.O. 1927, c. 112, s. 36.

EXECUTIONS AGAINST MUNICIPAL CORPORATIONS.

37.—(1) An execution against a municipal corporation may be indorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings thereon shall then be the following,— <sup>Direction to
levy rate.</sup>

- (a) the sheriff shall deliver a copy of the writ and indorsement to the treasurer of the municipal corporation, or leave such copy at the office or dwelling-place of that officer, with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including the interest calculated to some day as near as is convenient to the day of the service; <sup>Statement of
claim to
treasurer.</sup>
- (b) if the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within one month after the service the sheriff shall examine the assessment roll of the municipality and shall, in like manner as rates are struck for general municipal purposes, strike a rate sufficient in the dollar to cover the amount due on the execution, with such addition to the <sup>When sheriff
to strike
rate.</sup>

same as the sheriff deems sufficient to cover the interest up to the time when the rate will probably be available, and his own fees and poundage;

Sheriff's precept to collector, etc., to levy rate.

(c) the sheriff shall thereupon issue a precept under his hand and seal of office directed to the collector of the corporation, and shall annex to the precept the roll of such rate, and shall by the precept after reciting the writ and that the corporation has neglected to satisfy the same, and referring to the roll annexed to the precept, command the collector to levy such rate at the time and in the manner by law required in respect to the general annual rates;

Rate rolls.

(d) if, at the time for levying the annual rates next after the receipt of such report, the collector has a general rate roll delivered to him for the year, he shall add a column thereto, headed "Execution rate in A.B. vs. The Township" (or as the case may be, adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time within which he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon;

Surplus.

(e) the sheriff shall, after satisfying the execution and all the fees and poundage thereon, pay any surplus, within ten days after receiving the same, to the treasurer of the municipal corporation.

Functions of clerk, assessors and collectors.

(2) The clerk, assessor, and collector of the corporation shall, for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect, the provisions of this Act with respect to such execution, be deemed to be officers of the court out of which the writ issued, and as such shall be amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel them to perform the duties imposed upon them. R.S.O. 1927, c. 112, s. 37.