

Exemptions—General and Specific.

Sections 6824 and 6825 of Code construed. Only the property exemptions under section 6825 would be within the exception subjecting such property to an execution, issued upon a judgment recovered for the purchase price.

February 19, 1917.

Mr. C. E. Carlson,
County Attorney,
Bozeman, Montana.

Dear Sir:

I have your letter requesting an opinion from me construing Sections 6824 and 6825 of the Code of Civil Procedure. Section 6824 provides certain general exemptions for the benefit of all classes of judgment debtors, except that an unmarried man, not the head of a family, is not entitled to the benefit of these exemptions, with the exception of wearing apparel. Section 6825 provides certain specific exemptions for the benefit of judgment debtors who are married or the heads of families. This Section provides, however, that no article or species of property "mentioned in this section", is exempt from execution issued upon a judgment recovered for its price, or upon a judgment of foreclosure of a mortgage lien thereon.

An exemption is a personal privilege which a debtor may claim or waive at his election. And he may waive both general exemptions and specific exemptions by mortgage. The question which you have presented is whether or not property mentioned in Section 6824 is exempt from execution issued upon a judgment recovered for its

purchase price. I am of the opinion that it is exempt for the reason that the exception to the exemptions mentioned in Section 6825 is confined to the property "mentioned in this Section", and I cannot see how such an exception can refer back to include property in Section 6824.

These two sections of the Revised Codes were formerly Sections 1221 and 1222 of the Annotated Codes of 1895 which were amended by Chapter 8 of the 1905 Session Laws. Under the present status of the law, a married man, or one who is the head of a family, can claim both the general exemptions in Section 6824, and in addition the specific exemptions mentioned in Section 6825, except that he cannot claim more than one of the exemptions mentioned in the first six subdivisions of Section 6825, and also any property mentioned in Section 6825 would be subject to an execution issued upon a judgment recovered for the purchase price of such property.

Respectfully,

S. C. FORD,
Attorney General.