

ascertain the motive and intention of the Legislature ; and rely upon such inferences and presumptions as seem to flow from the whole policy of this Act.

It is apprehended that this Provincial Statute is not what is technically and strictly termed a Declaratory Act. All the books, treating upon these subjects, represent Declaratory Acts to be “ those made where the old custom of the kingdom is almost fallen into disuse, or become disputable—in which case, the Parliament thinks proper, *in perpetuum rei testimonium*, and for settling all doubts and difficulties, to declare what the common law is and ever has been.” In what particular, we would ask, does this Act come under this definition ? In reading the Preamble, one would imagine that it was the intention to make it Declaratory ; but we cannot bring ourselves to believe that it is so. It is quite true, that the Preamble, after reciting the English and Irish Statutes of Limitations, enunciates what we must regard as a fact, since the Legislature states it, viz : “ That various questions have arisen in that part of the Province, which heretofore constituted the Province of Lower Canada, in actions grounded on debts, promises, contracts and agreements of a mercantile nature, between merchant and merchant, trader and trader, so reputed and understood according to law, not only as to the proof and effect of acknowledgments and promises, offered in evidence for the purpose of taking cases out of the operation of the said enactments, but as to the existence of the said Statutes, as part of the law in Lower Canada aforesaid.” It cannot, moreover, be denied that the following words plainly intimate, to a certain extent, the intention of the law : “ *And it is expedient to prevent such questions, and to make provision for giving effect to the said enactments and to the intention thereof.*”

This is all very good as an assignment of motive, or as the manifestation of intention ; but it must not be forgotten that the Preamble is no part of the Act. It may, indeed, reveal the motive, assist a presumption, or aid in detecting the intent and meaning of the law ; but can have no direct, independent, and operating effect whatever. And this we take to be incontrovertibly true, be the terms and intention of the Act what they may. The Preamble has established what must now be received as an historical fact in reference to men’s opinions of the existence and operation of the English Statute of Limitations in Lower Canada. It has done more : it has very plainly intimated the main intention of the Act ; but indeclaratory language, and in a declaratory sense, it goes no further. We look in vain, in the enacting clauses of the Act, for any form of legislative expression—either word or sentence—declaratory as to the past, present, or future existence of the old Imperial Law. Nor is there any mention of it except as “ these acts,” intimating obliquely an assumption on the part of the Legislature that “ these acts” were in force in this Province at the time of passing the Provincial Act under