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No. 10.

4th Session, 6th Parliament, 24 Vic., 1861.

BILL.

**An Act to amend the Laws relating to Usury,
and to establish a maximum rate of In
terest.**

Received and read the first time, Saturday,
23rd March, 1861.
Second reading, Tuesday, 2nd April, 1861.

Mr. McMICKEN.

QUEBEC:

**PRINTED BY THOMPSON, HUNTER & CO.,
ST. URSULE STREET.**

An Act to amend the laws relating to Usury, and to establish a maximum rate of Interest.

WHEREAS the removal of the restrictions on the rate of interest to be charged for the use of money has been found to work most adversely to the best interests of the community, and it is necessary and expedient that wholesome restraint should be imposed: Therefore Her Majesty, &c., enacts as follows:—

Preamble.

I. From and after the passing of this Act, the fifty-eighth chapter of the "Consolidated Statutes of Canada" shall be, and the same is hereby repealed, except as to contracts made after the Acts 16 Vic., chap. 80, and 22 Vic., chap. 25, came into force, and before the passing of this Act, as to which the said chapter shall continue in force.

Cap. 58. Con: Stat: Canada repealed. Exception.

II. The interest of money for a loan or forbearance of money, goods, or things in action, shall be at the rate of *eight dollars* and no more, upon *one hundred dollars*, for a year, and at the same rate for a greater or less sum and for a longer or shorter time.

Rate of interest fixed.

III. No person or corporation shall, directly or indirectly, take or receive in money, goods, or things in action, or in any other way, any greater sum or greater value, for the loan or forbearance of any money, goods, or things in action, than is above prescribed.

No one shall take a higher rate.

IV. No Bank or Banking Institution doing business within this Province shall directly or indirectly, charge, stipulate for, or take a higher rate of interest or discount than is hereinbefore prescribed; nor shall it be lawful for any such Bank or Banking Institution carrying on business as such in this Province, in discounting at any of its places of business, branches, or agencies or offices of discount and deposit, any note, bill, or other negotiable security or paper payable at any other of its offices, agencies, places of business, or offices of discount and deposit within this Province, to receive or retain in addition to the discount any amount exceeding one-eighth of one per cent.; or if the note, bill, or other negotiable security be payable at any other place within the Province, and at a Bank, office of discount, or other place of business other than belonging to or connected with the Institution at which the discount shall be effected, the charge for commission or agency shall not exceed one-fourth of one per cent.

No Bank to take more.

Bank charges for agency, &c., on Bills, &c., limited.

V. Any person who shall directly or indirectly receive any greater interest, discount or consideration than is prescribed by this Act, and in violation of the provisions thereof, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not less than *one hundred dollars*, nor more than twice the amount so illegally

Penalty for taking any greater interest.

- Instrument stipulating higher rate to be void. exacted, in cases where the amount so illegally exacted exceeds fifty dollars; and all contracts, mortgages, bonds, notes, or writings obligatory, in which is a covenant or stipulation for the payment of any greater interest, discount, or consideration, than is prescribed by this Act, shall be absolutely null and void. 5
- Party offending may be examined as a witness. VI. Every person charged with offending against this Act may be compelled to appear and give evidence in reference to the charge preferred against him, in like manner as any other witness; and any person who shall swear falsely shall, upon conviction thereof, suffer the pains of wilful and corrupt perjury. 10
- Who only liable for offences committed by Banks. VII. In case of infractions of this Act by Banks or Banking Institutions, the officer or agent of such Bank or Banking Institution who shall commit the offence shall be alone subject to the pains and penalties to which offenders under this Act are liable, except in cases where such offence shall have been committed by authority or instructions from the chief officer or officers of such Bank or Banking Institution, and then the President or Cashier, or other chief officer shall be liable as if the offence had been committed by him. 15
- How the Act shall apply to Loan Companies, &c., not being Banks. VIII. This Act shall not apply or be construed to apply to any corporation, company, or association of persons, not being a Bank, heretofore organized and authorized by Law to lend or borrow money; except in cases where such corporation, company or association shall exceed, under any pretence, the charge they are now privileged by Law to make for the advance or loaning of money,—then upon conviction thereof the charter of such corporation, company or association shall be forfeited. 20
- Imprisonment when fine cannot be collected. IX. In cases where any fine imposed by this Act cannot be collected, the Judge before whom the conviction was made may, after a reasonable time not exceeding sixty days, issue his warrant for the imprisonment of the offender for a term not exceeding thirty days, and such imprisonment shall not in any wise abrogate the fine. 25
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