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4th Session, 3d Parliament, 14 Victoria, 1851.

BILL.

An Act to amend the Laws concerning the Interest of Money.

Received and read a first time, Friday, 30th May, 1851.

Second reading, Monday, 9th June, 1851.

Hon. Mr. SHERWOOD.

TORONTO: PRINTED BY LOYELL AND GIRSON.

BILL.

An Act to amend the Laws concerning the Interest of Money.

WHEREAS certain provisions of the laws concern-Preamble.

Wing the Interest of Money are unfavourable. W ing the Interest of Money are unfavourable to the introduction of capital into this Province and retard the developement of its resources and enterprise, by prevent-5 ing loans and investments on such terms as the borrower and lender may deem to be for their mutual advantage and commensurate with the value of the money lent and with the risk of loss:—Be it therefore enacted, &c.,

And it is hereby enacted by the authority of the same, Laws inconsis 10 That all enactments and provisions of law inconsistent Act repealed. with those hereinafter made, shall be and are hereby suspended during the time this Act shall remain in force, except only as to contracts for the payment or allowance of interest made before the passing of this Act, or 15 offences theretofore committed, with regard to which they Exception. shall remain in full force and effect, and the following sections of this Act shall be construed accordingly as not applying to such contracts or offences.

II. And be it enacted, That from and after the passing of Certain Bills 20 this Act, no bill of exchange or promissory note made of Exchange payable at or within twelve months after the date thereof, be void on acor not having more than twelve months to run, nor any count of the contract for the loan or forbearance of money, shall, by pulating more reason of any interest taken thereon or secured thereby, than 6 percent interest. 25 or any agreement to pay or receive or allow interest in discounting, negociating or transferring any such bill of exchange or promissory note, be void, nor shall the liability of any party to any such bill of exchange, nor the liability of any person borrowing any sum of money as 30 aforesaid, he affected by reason of any statute or law in force for the prevention of usury; nor shall any person or persons or body corporate drawing, accepting, indorsing or signing any such bill or note, or lending or advancing or forbearing any money as aforesaid, or taking 35 more than the present rate of legal interest in this province, for the loan or forbearance of money as aforesaid. be subject to any penalties under any statute or law relating to usury, or to any other penalty or forfeiture; anything in any law or statute relating to usury, or in any

to the contrary notwithstanding: Provided always, that Proviso: as to nothing in this section contained shall extend to the loan on lands, &c.

other law whatsoever in force in any part of this Province,

or forbearance of any money upon security of any lands. tenements, hereditaments or immoveables, or any estate or interest therein, but to such loan or forbearance the provisions of the next following section shall apply.

Astocentracts un loans secured on lands

Penalty removed.

void, only as regards excess

III. And be it enacted, That no contract for the loan or 5 forbearance of money or money's worth, upon security of lands, tenements, hereditaments or immoveables, at any rate of interest whatsoever, and no payment in pursuance of such contract, shall make any party to such contract or payment liable to any loss, forfeiture, penalty or 10 Proviso; to be proceeding, civil or criminal, for usury: Provided, nevertheless, that every such contract and every security for over opercent, the same shall be void so far, and so far only, as relates to any excess of interest thereby made payable above the rate of pounds for the forbearance of £100 15 for a year, and that every payment of interest exceeding the rate aforesaid shall be taken to be in discharge of the principal money, or of interest at the rate aforesaid, any agreement to the contrary, or actual appropriation of "the payment to the contrary notwithstanding; so that as 20 soon as the amount of the principal sum, with interest as last aforesaid, shall be repaid, the said principal sum, with all interest due thereon, shall be deemed to be paid and satisfied: Provided always, that when the said principal sum and interest, at the rate aforesaid, shall have 25 that rate to be been paid and satisfied, any further payment voluntarily lawful. made on account of any excess of interest reserved or agreed for by the original contract of loan or forbearance, shall be lawful and irrevocable.

Proviso: voluntary payments beyond

No more than coverable in any case, un-

IV. Provided always, and be it eancted, That nothing 30 6 per cent. re- in this Act contained shall be construed to enable any. person or party to claim in any Court of Law or Equity less stipulated, more than six per centum per annum interest on any account, or on any contract or engagement, notwithstanding they may be relieved from the penalties against usury, 35 unless it shall appear to the Court that a greater rate of interest was agreed upon by the parties; nor to invalidate any agreement for a less rate of interest than that last aforesaid; and that in all cases where interest shall be recoverable, and no rate of interest shall have been 40 agreed upon by the parties, the rate of interest recoverable shall be six per centum per annum, as it hath here-

Rate when there is no stinulation.

tolore been.

Duration of Act

V. And be it enacted, That this Act shall be in force until the day of May, one thousand 49 eight hundred and and thence until the end of the then next session of the Provincial Parliament, and no longer; and that this Act may be amended or repealed by any Act to be passed during this 50 present session.

May be amended. VL And be it enaated, That the provisions of this Act Extent of Act. shall extend only to that part of this Province which was formerly Upper Canada.