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

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## BILL.

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

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

Second reading, Monday, 9th June, 1851.

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Hon. Mr. SHERWOOD.

## B I L L .

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

**W**HEREAS certain provisions of the laws concerning the Interest of Money are unfavourable to the introduction of capital into this Province and retard the developement of its resources and enterprise, by preventing 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.,

Preamble.

And it is hereby enacted by the authority of the same, That all enactments and provisions of law inconsistent 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 offences theretofore committed, with regard to which they 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.

Laws inconsistent with this Act repealed.

Exception.

II. And be it enacted, That from and after the passing of this Act, no bill of exchange or promissory note made payable at or within twelve months after the date thereof, or not having more than twelve months to run; nor any contract for the loan or forbearance of money, shall, by reason of any interest taken thereon or secured thereby, or any agreement to pay or receive or allow interest in discounting, negotiating 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 aforesaid, be 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 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 other law whatsoever in force in any part of this Province, to the contrary notwithstanding: Provided always, that nothing in this section contained shall extend to the loan

Certain Bills of Exchange or notes not to be void on account of the taking or stipulating more than 6 per cent interest.

Proviso: as to loans secured on lands, &c.

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.

As to contracts on loans secured on lands &c.

Penalty removed.

Proviso: to be void, only as regards excess over 6 per cent.

Proviso: voluntary payments beyond that rate to be lawful.

No more than 6 per cent. recoverable in any case, unless stipulated.

Rate when there is no stipulation.

Duration of Act.

May be amended.

III. And be it enacted, That no contract for the loan or 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 proceeding, civil or criminal, for usury: Provided, nevertheless, that every such contract and every security for 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  $\text{£}100$  pounds for the forbearance of  $\text{£}100$  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 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 been paid and satisfied, any further payment voluntarily 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.

IV. Provided always, and be it enacted, That nothing in this Act contained shall be construed to enable any person or party to claim in any Court of Law or Equity 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, 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 agreed upon by the parties, the rate of interest recoverable shall be *six per centum per annum*, as it hath heretofore been.

V. And be it enacted, That this Act shall be in force until the  $\text{15th}$  day of May, one thousand eight hundred and  $\text{thence until}$  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 present session.

**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.