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No. 73.

3rd Session, 6th Parliament, 23 Victoria, 1860.

BILL.

**An Act respecting the Consolidated Statute
for Lower Canada.**

Received and Read, first time, Friday, 16
March, 1860.

Second reading, Tuesday, 20th March, 1860.

HON. MR. ATTY. GEN. CARTIER,

QUEBEC :

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

An Act respecting the Consolidated Statutes of Lower Canada.

WHEREAS it has been found expedient to revise, classify and consolidate the Public General Statutes which apply exclusively to Lower Canada, including as well those passed by the Legislature of the late Province of Lower Canada, and of the former Province of Quebec, as those passed by the Parliament of Canada; And whereas, such revision, classification and consolidation have been made accordingly; And whereas it is expedient to provide for the incorporation therewith of the Public General Statutes passed during the present Session, in so far as the same affect Lower Canada exclusively, and for giving the force of law to the body of Consolidated Statutes to result from such incorporation: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. The printed Roll attested as that of the said Statutes so revised, classified and consolidated as aforesaid, under the signature of His Excellency the Governor General, that of the Clerk of the Legislative Council and that of the Clerk of the Legislative Assembly, and deposited in the office of the Clerk of the Legislative Council, shall be held to be the original thereof, and to embody so much of the several Acts and parts of Acts mentioned as to be repealed in the Schedule A thereto annexed, as was in force at the commencement of the present Session; but the marginal notes thereon, and the references to former enactments at the foot of the several sections thereof form no part of the said Statutes and shall be held to have been inserted for convenience of reference only, and may be omitted or corrected, and any mis-print or error, whether of commission or omission in the said Roll may also be corrected,—in the Roll hereinafter mentioned, so that the latter may truly embody the Acts and parts of Acts aforesaid, as amended by the said Acts of the present Session.

Original Roll of Statutes revised, &c., to be certified and deposited

As to marginal notes, mis-prints, &c.

II. The Governor may select such Acts and parts of Acts passed during the present Session, as he may deem it advisable to incorporate with the said Statutes contained in the said first mentioned Roll, and may cause them to be so incorporated therewith, adapting their form and language to those of the said Statutes (but without changing their effect), inserting them in their proper places in the said Statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections or their order, if need be, and adding to the said Schedule A a list of the Acts and parts of Acts of the present Session so incorporated as aforesaid.

Governor may cause the legislation of this Session to be incorporated with the Statutes in the said Roll.

III. So soon as the said incorporation of such Acts and parts of Acts with the said Statutes, and the said addition to the said Schedule A has been completed, the Governor may cause a correct printed Roll thereof attested under his signature and countersigned by the Provincial

Certified Roll including the legislation of the present Session to be

deposited and
serve as the
original
thereof.

Secretary, to be deposited in the office of the Clerk of the Legislative Council, which Roll shall be held to be the original thereof, and to embody so much of the several acts and parts of Acts mentioned as repealed in the amended Schedule A thereto annexed, as was in force when the said Roll was made; any marginal notes, however, and references to former enactments which may appear thereon being held to form no part of the said Statutes, but to be inserted for convenience of reference only. 5

Proclamation
for bringing
the Consoli-
dated Sta-
tutes into
force on a cer-
tain day.

IV. The Governor in Council, after such deposit of the said last mentioned Roll, may, by Proclamation, declare the day on, from and after which the same shall come into force and have effect as law by the designation of "The Consolidated Statutes for Lower Canada." 10

On and after
that day ;
they shall be
in force--and
the enact-
ments em-
bodied in
them repealed
Exception.

V. On, from and after such day, the same shall accordingly come into force and effect as and by the designation of "The Consolidated Statutes for Lower Canada," to all intents as though the same were expressly embodied in and enacted by this Act, to come into force and have effect on, from and after such day; and on, from and after the same day, all the enactments in the several Acts and parts of Acts in such amended Schedule A mentioned as repealed, shall stand and be repealed,—save only as hereinafter is provided. 15 20

Saving as to
transactions.
&c., anterior
to the repeal.

VI. The repeal of the said Acts and parts of Acts shall not revive any Act or provision of law repealed by them: nor shall the said repeal prevent the effect of any saving clause in the said Acts and parts of Acts, or the application of any of the said Acts or parts of Acts or of any Act or provision of law formerly in force,—to any transaction, matter or thing anterior to the said repeal, to which they would otherwise apply. 25

Certain mat-
ters anterior
to the repeal
not to be af-
fected by it,—
Penalties, &c.
Indictments,
&c.
A. u. n. s., &c.

VII. The repeal of the said Acts and parts of Acts shall not affect—
1. Any penalty, forfeiture or liability, civil or criminal, incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal,— 30

2. Nor any indictment, information, conviction, sentence or prosecution had, done, completed or pending at the time of such repeal,—

3. Nor any action, suit, judgment, decree, certificate, execution, process, order, rule or any proceeding, matter or thing whatever respecting the same, had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal,— 35

4. Nor any act, deed, right, title, interest, grant, assurance, descent, will, registry, contract, lien, charge, matter or thing, had, done, made, acquired, established or existing at the time of such repeal,— 40

5. Nor any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto, at the time of such repeal,—

6. Nor any marriage, certificate or registry thereof, lawfully had, made, granted or existing before or at the time of such repeal,— 45

7. Nor shall such repeal defeat, disturb, invalidate or prejudicially affect any other matter or thing whatsoever, had, done, completed, existing or pending at the time of such repeal;

8. But every such
Penalty, forfeiture and liability, and every such
Indictment, information, conviction, sentence and prosecution, and every such 50

Action, suit, judgment, decree, certificate, execution, process, order, rule, proceeding, matter or thing, and every such

But the same
to remain
valid, &c.

Acts, deeds,
rights, &c.

Offices, &c.

Marriages, &c.

Any other
matters, &c.

Act, deed, right, title, interest, grant, assurance, descent, will, registry, contract, lien, charge, matter or thing, and every such Office, appointment, commission, salary, allowance, security and duty, and every such

5 Marriage, certificate and registry, and every such other matter and thing, and the force and effect thereof, respectively,

May and shall, remain and continue as if no such repeal had taken place, and, so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the said Consolidated Statutes and other the Statutes and Laws having force in Lower Canada, so far as applicable thereto, and subject to the provisions of the said several Statutes and Laws.

And may be enforced, &c., and under what laws.

10

VIII. The said Consolidated Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the said Acts and parts of Acts so repealed, and for which the said Consolidated Statutes are substituted.

Consolidated Statutes not to be deemed new laws.

15

IX. But if upon any point the provisions of the said Consolidated Statutes are not in effect the same as those of the repealed Acts and parts of Acts for which they are substituted, then as respects all transactions, matters and things subsequent to the time when the said Consolidated Statutes take effect, the provisions contained in them shall prevail, but as respects all transactions, matters and things anterior to the said time, the provisions of the said repealed Acts and parts of Acts shall prevail.

How construed if in any case they differ from the repealed Acts, &c.

20

X. Any reference in any former Act remaining in force, or in any instrument or document, to any Act or enactment so repealed, shall after the Consolidated Statutes take effect, be held, as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the Consolidated Statutes having the same effect as such repealed Act or enactment.

As to references to repealed Acts, in former Acts, &c.

25

XI. The insertion of any Act in the said Schedule A shall not be construed as a declaration that such Act or any part of it was or was not in force immediately before the coming into force of the said Consolidated Statutes.

As to effect of insertion of an Act in Schedule A.

35 XII. Copies of the said Consolidated Statutes printed by the Queen's Printer from the amended Roll so deposited, shall be received as evidence of the said Consolidated Statutes in all Courts and places whatsoever.

Copies by Queen's Printer to be evidence.

40 XIII. The Interpretation Act contained in the Consolidated Statutes of Canada, shall apply to the Consolidated Statutes for Lower Canada and to this Act;—and in construing this Act or any Act forming part of the said last mentioned Statutes, unless it be otherwise provided, or there be something in the context or other provisions thereof indicating a different meaning or calling for a different construction,—

Interpretation of the said Statutes.

45 1. The enactments in such Act apply to the whole of Lower Canada;

Extent of enactments.

2. The Law is to be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof according to its spirit, true intent and meaning;

Law to be construed as speaking at the time when the case arises.

50

- “ Shall” and
“ may.” **3.** The word “ shall ” is to be construed as imperative, and the word
“ may ” as permissive ;
- Herein. **4.** Whenever the word “ herein ” is used in any section of an Act, it
is to be understood to relate to the whole Act and not to that section only ;
- Quorum. **5.** When any Act or thing is required to be done by more than two 5
persons, a majority of them may do it ;
- Proclamation. **6.** The word “ Proclamation ” means a Proclamation under the Great
Seal, and the expression “ Great Seal ” means the Great Seal of the
Province of Canada ;
- Proclamation. **7.** When the Governor is authorized to do any act by Proclamation, 10
such Proclamation is to be understood to be a Proclamation issued under
an order of the Governor in Council ; but it shall not be necessary that
it be mentioned in the Proclamation that it is issued under such order ;
and this provision shall not prevent the validity of any Proclamation
heretofore issued by the Governor, which shall be valid though not under 15
the Great Seal ;
- County. **8.** The word “ County ” includes two or more Counties united for
purposes to which the enactment relates.
- As to English
and French
Versions. **XIV.** If upon any point there be a difference between the English
and French versions of the said Statutes, that version which is most con- 20
sistent with the Acts consolidated in the said Statutes shall prevail.
- As to distri-
bution of
copies. **XV.** The laws relating to the distribution of the printed copies of the
Statutes shall not apply to the said Consolidated Statutes, but the same
shall be distributed in such numbers and to such persons only, as the
Governor in Council may direct. 25
- This to be
printed with
the said Sta-
tutes.
How they
may be cited. **XVI.** This shall be printed with the said Consolidated Statutes and shall
be subject to the same rules of construction as the said Consolidated
Statutes ;—And any Chapter of the said Statutes may be cited and
referred to in any Act and proceeding whatever, Civil and Criminal, either 30
by its title as an Act,—or by its number as a Chapter in the copies
printed by the Queen’s Printer,—or by its short title.