

No. 11.

1st Session, 6th Parliament, 21 Victoria, 1858.

BILL.

An Act to amend and consolidate the Usury
Laws of this Province, and for the better
regulating the Rate of Interest.

Received and read, first time, Tuesday, 16th
March, 1858.

Second reading, Tuesday, 23rd March, 1858.

MR. BENJAMIN.

TORONTO :
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An Act to amend and consolidate the Usury Laws of this Province, and for the better regulating the Rate of Interest.

WHEREAS it is expedient to amend the Laws relating to Interest of money, and to protect the community against the rapacious exactions of the Usurer, and for these purposes to repeal the Act of the Parliament of this Province, passed in the 16th year of Her Majesty's reign, and intituled, *An Act to modify the Usury Laws*, as to future Contracts; Therefore Her Majesty, &c., enacts as follows : Preamble.

I. From and after the passing of this Act; the Act mentioned in the preamble of this Act, shall be and the same is hereby repealed, except only as to contracts made after it came into force and before the passing of this Act, as to which it shall remain in force; Provided always, that any Act or any part of an Act, ordinance or law, expressly or by implication repealed by the said Act as to the cases to which it applies, shall be and remain repealed as to every case to which this Act shall apply. 16 Vic. c. 80 repealed.
Exceptions.
Proviso.

II. The rate of interest to be charged after the passing of this Act, which shall be considered legal interest, shall be,—for all Promissory Notes and Bills of Exchange which shall not have more than four months to run, seven dollars per annum upon every hundred dollars,—upon all Notes or Bills of Exchange which shall have not less than six months nor more than eight months to run, eight per centum per annum,—and upon all Notes or Bills of Exchange which shall not have less than nine months nor more than twelve months to run, nine per centum per annum; Provided always, that it shall not be lawful to charge, take or deduct from any Note or Bill of Exchange bearing more than twelve months to run, a higher rate of interest or discount than nine per centum per annum. Legal rate of interest on Notes and Bills.
Proviso.

III. For all sums of money to be hereafter advanced or loaned upon the security of real estate, by way of mortgage or hypothec, the rate of interest shall be such as the parties to such contract or mortgage shall agree upon; Provided always, that in all cases where such mortgages or hypothecs are given to secure, the payment of any Book Account, Note, Bill of Exchange, or monies advanced in trade, the rate of interest shall, in all such cases, be governed by the rates set forth in the second section of this Act. Rate on Mortgages, &c.
Proviso: if Mortgage is founded on a Note, &c.

IV. Whenever, in any action brought on such Promissory Note, Bill of Exchange, or on such Mortgage or hypothec as in the proviso to the third section of this Act is set forth, it shall appear upon a pleading and proofs in the action to that effect, that a greater rate of interest has been Excess of interest above the rate fixed by the Act may be de-

deducted from the principal. Defendant shall have costs.

directly or indirectly received, reserved or taken than is herein set forth, according to the period which such Note, Bill of Exchange, or such Mortgage or hypothec as last aforesaid may have to run, the defendant shall recover his full costs, and the plaintiff shall recover and be entitled to the amount of the principal of such Note, Bill of Exchange, Mortgage or hypothec as aforesaid; Provided always, that the excess of interest or discount so reserved, taken or received shall be deducted from the principal, and judgment shall be given for the balance, and from the amount of such judgment the defendant shall be entitled to deduct his full costs.

Proviso.

Legal interest on Mortgages, &c., when no other is specified.

V. In all cases of Mortgages or hypothecs or Bonds or other sealed Instruments bearing interest, and the rate of interest not specified, Eight per Centum per annum, and at and after that rate for larger or smaller sums, shall be charged paid and recovered, and no more.

Bank charges for agency, &c., limited in certain cases.

VI. It shall not be lawful for any Chartered Bank in this Province to take or receive as agency, exchange, or commission, on the discount of any note, bill, or other negotiable security or paper payable at a different place in this Province from that at which the same is discounted, and at which the Bank may have an agency, more than one eighth per cent, in addition to the discount, any law of the Province to the contrary notwithstanding.

Certain corporations not to be within this Act, but to abide by their Charter.

VII. It shall not be lawful for any corporation or association not having banking privileges, but which is nevertheless authorized to lend money on the security of Real Estate and other securities, to take the discounts and interests provided and authorized by this Act to be taken, but they shall be confined to the enjoyment of the privileges in their several respective Charters contained.

Recital.

VIII. And whereas, in times of great stringency in the money market, great and serious difficulties have been periodically experienced by the mercantile and trading communities, for the want of a power to equalize the rate of Interest, so as to enable the Chartered Banks of the Province to render that aid for which they were in part incorporated, and it is necessary and proper to provide means by which this can safely be done, therefore,—It shall and may be lawful on occasions of a severe monetary crisis, for the Governor in Council to issue an order authorising the Chartered Banks of the Province, as well as the Banks organised under the general Banking Law, to raise the rate of interest in such ratio as to the said Governor in Council shall appear to be requisite in order to regulate the disturbed state of the market, and such order shall remain in force for any period not exceeding 60 days;—the period of duration of any such order shall be mentioned in it, and the order shall be published in the Official Gazette, a copy of which containing such order shall be posted at each of the Banks and their agencies in the Province;—Provided always, that it shall and may be lawful for the Governor in Council, at any time during the existence of any such order, to reconsider the same, and so to modify it as to reduce or increase the rate of interest, as the exigencies of the times may require: Provided also, that the same rate of Interest which the said Chartered Banks shall be permitted to charge, by virtue of any such Order issued by the Governor in Council,

In times of severe monetary pressure the Governor in Council may authorize the raising of the rate of interest.

Proviso.

Proviso.

pending the duration of the same, may also be charged by individuals ;
And the rate stipulated, reserved or received at any time, if then law-
ful under any such order in Council, may be retained or recovered,
notwithstanding the expiration of the time limited for the duration of
5 such Order.

XI. All Acts or parts of Acts, contrary to the provisions of this Act, are hereby repealed. Inconsistent
enactments
repealed.