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No. 166.

2D SESSION, 3D PARLIAMENT, 12 VICTORIA, 1849.

BILL.

An Act for putting a legislative Interpretation upon certain terms used in Acts of Parliament, and for rendering it unnecessary to repeat certain provisions and expressions therein, and for ascertaining the date and commencement thereof, and for other purposes.

Received and read a first time,

Second reading,

[350 Copies.]

Honble Mr.

S. Derbishire and G. Desbarats, Queen's Printer.

 BILL.

An Act for putting a legislative Interpretation upon certain terms used in Acts of Parliament, and for rendering it unnecessary to repeat certain provisions and expressions therein, and for ascertaining the date and commencement thereof, and for other purposes.

2 **W**HEREAS it is desirable to avoid, Preamble.
 3 by the establishment of some general
 4 rules for the interpretation of Acts of
 5 the Provincial Parliament, the continual
 6 repetition therein of words, phrases and
 7 clauses, which are rendered necessary
 8 solely by the want of such rules, and also
 9 to provide for the date and commencement
 10 of such Acts being known with certainty: Be
 11 it therefore enacted, &c. And it is hereby
 12 enacted by the authority of the same, that
 13 this Act shall be known, cited and referred
 14 to as "The Interpretation Act," and that
 15 each provision thereof shall extend and
 16 apply to each Act passed in this present
 17 Session or in any future Session of the
 18 Provincial Parliament, except in so far as
 19 any such provision shall be inconsistent
 20 with the intent and object of such Act, or
 21 the interpretation which such provision
 22 would give to any word, expression or
 23 clause shall be inconsistent with the con-
 24 text; and except in so far as this Act or
 25 any provision thereof shall in any such
 26 Act be declared not applicable thereto;
 27 nor shall the omission in any Act of a
 28 declaration that this Act shall apply there-
 29 to, be construed to prevent its so applying,
 30 although such express declaration may be
 inserted in some other Act or Acts of the
 same Session.

By what name
this Act shall
be known, and
to what Acts
it shall apply.

32 **II.** And be it enacted, That the Clerk of Date of Royal
 33 the Legislative Council shall endorse on assent, &c.
 34 every Act of the Parliament of this Province to any Act to
be indorsed

thereon and to
make part
thereof, &c.

which shall pass during the present and every future Session thereof, immediately after the title of such Act, the day, month and year when the same shall have been by the Governor of this Province assented to in Her Majesty's name, or reserved for the signification of Her Majesty's pleasure thereon, and in the latter case he shall also endorse thereon the day, month and year when the Governor of this Province shall have signified either by speech or message to the Legislative Council and Assembly of this Province, or by Proclamation, that the same has been laid before Her Majesty in Council, and that Her Majesty has been pleased to assent to the same; and such indorsement shall be taken to be a part of such Act, and the date of such Assent or Signification, as the case may be, shall be the date of its commencement if no later commencement be therein provided.

Any Act may
be amended
during the
same Session.

III. And be it enacted, That any Act of the Parliament of this Province passed or to be passed during the present or during any future Session thereof, may be amended, altered or repealed by any Act to be passed in the same Session thereof; any law, usage or custom to the contrary notwithstanding.

Governor and
his Successors
in office to be
a Corporation
sole.

IV. And be it enacted, That the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being and his Successors, shall be and he and they are hereby declared to be a Corporation sole; and all bonds, recognizances, and other instruments now by law required to be taken to him in his public capacity, or which shall or may hereafter be required to be so taken, shall be taken to him and his Successors, by his name of office, and shall and may be sued for and recovered by him or his Successors the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, by his or their name of office as such; and the same shall not in

any case go to or vest in the personal representatives of such Governor, Lieutenant-Governor, or person administering the government of this Province; during whose government thereof the same shall have been so taken.

V. And be it enacted, That in every Act of the Parliament of this Province, passed or to be passed as aforesaid :

How certain expressions shall be construed.

1. The words "Her Majesty," "the Queen," or "the Crown," shall mean Her Majesty, Her Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland :

Her Majesty, &c.

2. The words "Governor," "Governor of this Province," "Governor General," or "Governor in Chief," shall mean the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being :

Governor, &c.

3. The words "Governor in Council," shall mean the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, acting by and with the advice of the Executive Council thereof :

Governor in Council.

4. The words "Lower Canada," shall mean all that part of this Province which formerly constituted the Province of Lower Canada :

Lower Canada.

5. The words "Upper Canada," shall mean all that part of this Province which formerly constituted the Province of Upper Canada :

Upper Canada.

6. The words "the United Kingdom" shall mean the United Kingdom of Great Britain and Ireland; and the words "the United States" shall mean the United States of America; and generally, the name commonly applied to any country, place, body, corporation, society, officer, functionary,

Names of Countries, places, societies or things.

person, party or thing, shall mean such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name be not the formal and extended designation thereof :

- Singular number or masculine gender. 7. Words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse : 6
8
- Person. 8. The word "person" shall include any body corporate or politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to the law of that part of the Province to which such context shall extend : 12
14
16
- Writing. Written. 9. The words "writing," "written," or any term of like import, shall include words printed, painted, engraved, lithographed or otherwise traced or copied : 18
20
- Now—next—hereafter. 10. The words "now," "next" or "hereafter," shall be construed as having reference to the time immediately before the commencement of the Session in which the Act shall have been presented for the Royal Assent : 22
24
26
- Month. 11. The word "month" shall mean a calendar month :— 28
- Holiday. 12. The word "holiday" shall include Sundays, New Year's Day, the Epiphany, the Annunciation, Good Friday, the Ascension, *Corpus Christi*, St. Peter and St. Paul's Day, all Saints Day and Christmas Day,—and any day appointed by Proclamation for a General Fast or Thanksgiving. 30
32
34
36
- Oath. 13. The word "oath" shall be construed as meaning a solemn affirmation, whenever the context shall be applied to any person and case by whom and in which a solemn 38
40

affirmation may be made instead of an
 2 oath: and in every case where an oath or
 affirmation is directed to be made before
 4 any person or officer, such person or officer
 shall have full power and authority to
 6 administer the same and to certify its having
 been made; and the wilful making of any
 8 false statement in any such oath or affir-
 mation, shall be wilful and corrupt perjury,
 10 and the wilful making of any false state-
 ment in any declaration required or au-
 12 thorized by any such Act as aforesaid,
 shall be a misdemeanor punishable as wilful
 14 and corrupt perjury:

Power to ad-
minister.

False state-
ments to be
perjury.

14. The words "Registrar" or "Register"
 16 in any such Act applying to the whole
 Province, shall mean and include indifferent-
 18 ly both Registrars in Lower Canada and
 Registers in Upper Canada, and their depu-
 20 ties respectively :

Registrar.
Register.

15. Any wilful contravention of any such
 22 Act as aforesaid, which is not made any
 offence of some other kind, shall be a
 24 misdemeanor and punishable accordingly :

Contravention
of Acts.

16. Whenever any wilful contravention
 26 of any such Act shall be made an offence
 of any particular kind or name, the person
 28 guilty of such contravention shall on con-
 viction thereof be punishable in the manner
 30 in which such offence is by law punishable:

Contravention
to which a
legal name is
assigned.

17. Whenever any pecuniary penalty or
 32 any forfeiture is imposed for any contraven-
 tion of any such Act as aforesaid, then if no
 34 other mode be prescribed for the recovery
 thereof, such penalty or forfeiture shall be re-
 36 coverable by civil action or proceeding at the
 suit of the Crown only, or of any private party
 38 suing as well for the Crown as for himself,
 in any form allowed in such case by the
 40 law of that part of the Province where it
 shall be brought, before any Court having
 42 jurisdiction to the amount of the penalty in
 cases of simple contract, upon the evidence
 44 of any one credible witness other than the

Recovery and
distribution of
penalties and
forfeitures.

Plaintiff or party interested; and if no other provision be made for the appropriation of such penalty or forfeiture, one half thereof shall belong to the Crown, and the other half shall belong to the private plaintiff, if any there be, and if there be none, the whole shall belong to the Crown :

Monies levied for the Crown to make part of Con. Revenue Fund.

18. Any duty, penalty or sum of money or the proceeds of any forfeiture, which shall by any such Act as aforesaid be given to the Crown, shall, if no other provision be made respecting it, form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly :

Monies appropriated how payable and accounted for.

19. If any sum of the public money be by any such Act as aforesaid, appropriated for any purpose or directed to be paid by the Governor, then, if no other provision be made respecting it, such sum shall be payable under warrant of the Governor directed to the Receiver General, out of the Consolidated Revenue Fund of this Province, and the due application thereof shall be accounted for to Her Majesty, through the Lords Commissioners of the Treasury for the time being, in such manner and form as Her Majesty shall direct; and all persons entrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form, with such vouchers, at such periods and to such Officer, as the Governor shall direct :

Magistrate, Justices, &c.

20. The word "Magistrate" shall mean a Justice of the Peace; the words "two Justices," shall mean two or more Justices of the Peace, assembled or acting together; and if any thing directed to be done before a Magistrate or a Justice of the Peace, or other public Functionary or Officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done: and whenever power is given to any person, Officer or Functionary to do or to enforce

Power to do any act.

the doing of any act or thing, all such powers shall be understood to be also given as shall be necessary to enable such person, Officer or Functionary to do or enforce the doing of such act or thing :

21. If in any such Act as aforesaid, any party be directed to be imprisoned or committed to prison, such imprisonment or committal, shall, if no other place be mentioned, be in or to the common gaol of the locality in which the order for such imprisonment shall be made, or, if there be no common gaol there, then in or to that common gaol which shall be nearest to such locality ; and it shall be lawful for the keeper of any such common gaol, to receive such person, and him safely to keep and detain in such common gaol under his custody until discharged in due course of Law, or bailed in cases in which bail may by Law be taken :

Imprisonment and detention in gaol.

22. Words authorizing the appointment of any public Officer or Functionary, or any Deputy, shall be construed to include the power of removing him, re-appointing him or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested :

Power of appointing to include power of removing.

23. Words directing or empowering a public Officer or functionary, to do any act or thing or otherwise applying to him by his name of Office, shall include his Successors in such Office, and his or their lawful Deputy :

Public officer to include his Successor or Deputy.

24. Words making any association or number of persons a corporation or body politic and corporate, shall be construed to vest in such corporation, power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or moveables for the purposes for which the Corporation is constituted, and

Words creating a corporation.

to alienate the same at pleasure; and also to vest in any majority of the members of the Corporation, the power to bind the others by their acts; and also to exempt the individual members of the Corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them; but it shall not be lawful for any Corporation to carry on the business of banking unless when such power shall be expressly conferred on them by the Act creating such Corporation :

As to Banking.

Rights of the Crown saved.

And of other parties.

Power to amend the Act.

And if it be a Bank act.

Public act.

25. No provision or enactment in any such Act, as aforesaid, shall affect or be construed to affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, unless it be expressly stated therein that Her Majesty shall be bound thereby; nor the rights of any person, or of any body politic, corporate or collegiate, such only excepted as are therein mentioned, unless such Act be a public general Act :

26. Every such Act as aforesaid shall be so construed as to reserve to the Legislature the power of repealing or amending it and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification shall be deemed by the Legislature to be required for the public good; and unless it shall be otherwise expressly provided in any Act already passed or to be passed for chartering any Bank, it shall be in the discretion of the Legislature at any time thereafter to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such Bank, as may to them appear expedient :

27. If any such Act as aforesaid be declared to be a Public Act, such declaration shall be construed as an enactment that

such Act shall be judicially noticed by all
 2 Judges, Justices of the Peace and others
 without being specially pleaded : and every
 4 such Act which shall not, either by its
 nature or by express provision, be a Public
 6 Act, shall be deemed a private Act and
 shall be judicially noticed only when spe-
 8 cially pleaded ; and all copies of any such
 Acts, public or private, printed by the Queen's
 10 Printer shall be evidence of such Acts and
 of their contents, and every copy purporting
 12 to be printed by the Queen's Printer,
 shall be deemed to be so printed unless
 14 the contrary be shewn :

Private act.

Printed copies
of Acts.

28. The Preamble of every such Act as
 16 aforesaid shall be deemed a part thereof
 intended to assist in explaining the purport
 18 and object of the Act ; and every such Act
 and every provision or enactment thereof,
 20 shall be deemed remedial, whether its im-
 mediate purport be to direct the doing of any
 22 thing which the Legislature may deem to be
 for the public good or to prevent or punish
 24 the doing of any thing which it may deem
 contrary to the public good, and shall accord-
 26 ingly receive such fair, large and liberal
 construction and interpretation as will best
 28 ensure the attainment of the object of the
 Act and of such provision or enactment,
 30 according to their true intent, meaning and
 spirit :

Preamble.

All Acts reme-
dial.

29. Nothing in this Act shall be con-
 32 strued to exclude the application to any
 34 such Act as aforesaid, of any Rule of Con-
 struction applicable thereto, and not incon-
 36 sistent with this Act, or to exclude the ap-
 plication of any Rule of Construction in
 38 this Act to any Act passed in any Session
 before the present, if without this Act such
 40 Rule would have been applicable thereto.

Application of
Rules of Con-
struction in-
serted or not
inserted in this
Act.

30. The provisions of this Act shall ap-
 42 ply to the construction thereof and of the
 words and expressions used therein.

Provisions ap-
plicable to
words, &c. in
this Act.

44 VI. And be it enacted, That this Act
 may be amended, altered or repealed by
 46 any Act to be passed in this present Session
 of Parliament.

This Act may
be amended in
this Session.