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BILL.

An Act to amend the Act respecting
Interest.

No. 61 of 1865--1st Session.

Mr. BOURASSA.

OTTEAWA:

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SALLY STREET.

An Act to amend the Act respecting Interest.

IN amendment of the Act respecting Interest, chapter fifty-eight of the Consolidated Statutes of Canada; Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

5 **1.** As regards contracts made before this Act comes in force, the law shall remain as it now is. Existing contracts.

10 **2.** As regards Banks and Banking Institutions, the rate of interest or discount which they may lawfully stipulate, take, reserve or exact, shall remain limited as it now is to the rate of seven per centum per annum; and the rates of premium they may lawfully charge on discounting notes in the cases mentioned in the fifth and seventh sections of the said Act shall remain as now limited under the said sections. Rate of interest, &c., for Banks.

15 **3.** As regards any Insurance Company, or any Corporation or Association expressly authorized by Act of the Provincial Parliament to lend money at a higher rate of interest than six per cent., the rate which they may respectively lawfully stipulate, take, reserve, or exact, shall remain as now limited by any such Act. Insurance Companies and Corporations authorized to lend money.

20 **4.** Six per cent. per annum shall (as provided by the eighth section of the said Act) continue to be the rate of interest in all cases where, by the agreement of the parties or by-law, interest is payable, and no rate has been fixed by the parties or by law. Interest payable when no rate fixed.

25 **5.** The second section of the said Act is hereby repealed as regards contracts made after this Act comes into force;—and except as regards Banks, Companies and Associations, with respect to which special provision is made by sections two and three of this Act,—it shall not be lawful in or under any contract, to be made after the coming in force of this Act, to stipulate, take, reserve, exact or receive, directly or indirectly, for the loan or forbearance of money or money's worth, a higher rate of interest than seven per centum per annum. Sec. 2 of said Act repealed to future contracts. Rate limited in other cases to 7 per cent. per annum.

30 **6.** The ninth section of the said Act is hereby repealed, except only as to offences committed, or forfeitures or penalties incurred before the coming into force of this Act, with respect to all which it shall remain in force; and any person, Bank, Corporation or association, or other party whatsoever, who stipulates, takes, reserves, exacts or receives, directly or indirectly, after the coming into force of this Act, for the Forfeitures and penalties for contravening this Act.

loan or forbearance of money or money's worth, any greater or higher rate of interest than is declared to be lawful on such loan or forbearance under this Act or the Act hereby amended so far as it is hereby continued in force with respect to such loan or forbearance, shall by so doing forfeit all interest whatever, due or to become due, paid or payable by reason of such loan or forbearance, which shall be in excess of the rate permitted by law for such loan or forbearance, and such forfeiture shall be to the benefit and use of the borrower or party by whom such excess of interest would otherwise have been payable, or of those who represent him; and if any such excess of interest has been paid, it may by him or them be recovered or retained out of any principal sum then unpaid, as if the loan or forbearance had been made at the rate fixed by law for such loan or forbearance.

Recital.

7. And whereas the intention of the laws regulating the interest of money were frequently evaded by parties to Promissory Notes, Bills of Exchange, Checks, Mortgages, and other negotiable or assignable securities for money-selling and disposing of and assigning the same to other parties, for sums less in amount than the amount specified therein and made payable thereby respectively, whereby the purchasers of such instruments were enabled to recover a larger amount than the sum actually paid for or advanced upon the same, with legal interest, and unless a remedy be provided in that behalf, the object of this present Act may in like manner and in similar cases, be defeated: Therefore it is enacted, that the holder or holders, endorser or endorsers of any such Promissory Note, Bill of Exchange, Check, Mortgage, or other negotiable or assignable security, made, drawn, accepted, endorsed, executed or assigned, after the passing of this Act, in any action that may be brought upon the same, respectively, shall be entitled to recover the amount he or they shall have actually, and *bonâ fide*, paid for or advanced upon the same, and interest upon such last-mentioned amount, at the rate of eight per cent. per annum, to be computed from the time of such payment or advance, and no more.

In case of attempt to evade the laws regulating the interest.

When to come into force.

8. This Act shall come into force upon the first day of 186 and not before.