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No. 17.

4th Session, 8th Parliament, 29th Victoria, 1865.

BILL.

An Act to provide for the taxation and recovery of Arbitrators' Fees.

[No. 8 of 1865—1st Session.]

MR. T. C. WALBRIDGE.

OTTAWA :

PRINTED BY HUNTER, ROSE & CO., SALLY ST.

An Act to provide for the taxation and recovery of Arbitrators' Fees.

WHEREAS it is just and expedient that the fees of Arbitrators should be recoverable by suit, and should be liable in all cases to taxation; Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble,

5 **1.** In all cases where an award has heretofore been or hereafter shall be made, the arbitrator in the reference may maintain an action for his fees as arbitrator in the matter of the reference wherein the said award shall have been or shall be made, and in the absence of an express agreement in respect thereof, may maintain such action against all the parties to such reference, jointly or severally.

Action given for arbitrators' fees, and against whom

10 **2.** The fees of every arbitrator, howsoever he may have been, or may hereafter be, appointed or authorized, shall be taxable before payment thereof, or within one year after payment thereof where payment may have been or may be made under protest, by the Superior Courts of Law in Upper Canada, at the instance of any party to such reference, his or their executors or administrators, or at the instance of the arbitrator, his executors or administrators, or at the instance of any party who may have become liable to pay the same, and the same shall be so taxable, either before or after the award has been delivered to the parties in difference, or either of them, or before or after the said arbitrator has made any demand or named any amount for his fees in the premises; and either of the said Superior Courts, or any Judge thereof may order the said fees to be taxed by the proper officer in that behalf.

Arbitrators' fees liable to taxation by the Superior Courts of Law; and at whose instance.

25 **3.** In case any party to any such reference for taxation, having due notice, refuses or neglects to attend the taxation, the officer to whom the reference is made may tax the fees *ex parte*, and in all cases the master shall tax the costs of such reference and the application therefor, which costs shall be paid according to the event of the taxation, except that if a sixth be taxed off, the costs shall be paid by the party by whom, or on whose behalf, such demand was made, and if less than a sixth part be struck off, then by the party chargeable with such demand, except in cases where the Judge ordering the reference shall have otherwise directed, and the Judge ordering the reference shall have power to make such direction as to the costs thereof as to him seems fit.

Taxation *ex parte*, if parties fail to attend.

Provision if arbitrator's charge be reduced by one sixth.

40 **4.** Either of the said Superior Courts, or any Judge thereof, may, after any award has been made, order the delivery of the same, and of all documents connected with the arbitration, by the arbitrator or party holding the same to the party entitled thereto, upon payment of fees when the same have not been already paid, and that either before or after taxation of such fees or upon such other terms as to the said Court

Court or Judge may order delivery of award, &c., on payment of fees, &c.

or Judge shall seem just, and may order repayment of any excess of fees, if the same shall have been paid under protest; and such order may be made at the same time as the reference to taxation or otherwise, and any party upon whom any such order is made upon disobeying such order, shall be liable to attachment, in the same manner as an officer of the said Courts for disobedience to an order of the Court or a Judge, in a matter pending in the said Courts. 5

Judges may establish fees. 5. It shall be lawful for the Judges of the said Superior Courts, or a majority of them, from time to time, in their discretion, to make rules or orders establishing the fees to be chargeable by any arbitrator in the matter of any reference. 10

Applications, &c. 6. All applications under this Act shall be entitled in the proper Court, in the matter of A. B. & C. D. (*as the case may be*), Arbitrators or Referees, &c., &c.

Interpretation clause. 7. The word "arbitrator" in this Act, shall be taken to include all "arbitrators," every "umpire" or "umpires," and every "referee," in the nature of an arbitrator. The word "award," shall include every "umpirage" and every "certificate" in the nature of an award. 15

Act limited to U. C. 8. This Act shall apply only to Upper Canada.