

Acts of the General Assembly of His Majesty's Province of Lower Canada passed in the year 1793. Quebec: William Vondenvelden, Printer to the King's Most Excellent Majesty, 1793.

33 George III – Chapter 2

An Act to facilitate the Negotiation of Promissory Notes.

Whereas it will tend to the encouragement of trade and commerce within, this Province, that the Negotiation of Promissory Notes be facilitated, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act of the Parliament of Great Britain, passed in the thirty-first Year of His Majesty's Reign, intituled "*An Act to repeal certain parts of an act passed in the fourteenth year of His Majesty's Reign*" intituled "*An Act for making more effectual provision for the Government of the Province of Quebec in North America and to make further provision for the Government of the said Province.*" And it is hereby enacted by the authority of the same, that from and after the passing of this Act, all Notes in writing, commonly called Promissory Notes, hereafter to be made and signed by any person or persons, or by his, her or their Attorney or Attornies, legally authorized to sign such Promissory Notes for him, her or them; whereby such person or persons, his, her or their Attorney or Attornies, as aforesaid, shall promise to pay to any other person or persons, his, her or their order, any sum of money mentioned in such Promissory Note, shall be taken and construed to be, by virtue thereof, due and payable to any such person or persons to whom the same shall be made payable, and also every such Promissory Note, payable to any person or persons, his, her or their order; shall be assignable and indorseable over to any other person or persons, by an indorsement, or assignment, written and signed on such Promissory Note, specifying the date of such indorsement, the name of the person or persons, to whom or to whose order such Note is indorsed, and that such transfer is made for value received; and shall, by every new holder or holders under such indorsement or assignment as aforesaid, be further indorseable and assignable to any other person or persons, in the like manner, as often as the case may require: and that the person or persons to whom such sum of money shall be, by such Promissory Note, made payable, shall and may maintain an action for the same against the person or persons who or whose Attorney or Attornies as aforesaid, made and signed the same; and that any person or persons, to whom such Promissory Note, that is payable to any person or persons, his, her or their order, shall be indorsed or assigned, or the money therein mentioned ordered to be paid by indorsement or assignment thereon as aforesaid, shall and may maintain his, her or their action for such sum of money, either against the person or persons who, or whose Attorney, or Attornies, as aforesaid, made and signed such Promissory Note, or against any of the persons, who indorsed or assigned the same as aforesaid: And in every such action, the plaintiff or plaintiffs shall recover his, her or their damages and costs of suit: and if such plaintiff or plaintiffs shall be nonsuited, or a Judgment or a Verdict be given against him, her or them, the defendant or defendants shall recover his, her or their costs against the plaintiff or plaintiffs; and every such plaintiff or plaintiffs or defendant or defendants, respectively recovering, may sue out execution for such damages and costs, in such manner as is lawful in other cases; any law, usage or custom to the contrary notwithstanding.

II. Provided always, and be it further enacted, that any Promissory Note, hereafter to be made and signed by any banker or bankers, merchant or merchants, broker or brokers, trader or traders, or by his, her or their Attorney or Attornies, as aforesaid, payable to any person or persons whatsoever, his, her or their order, may be transferred or assigned by an indorsement in blank; and the holder or holders thereof, under such blank indorsement or indorsement, may and shall have the same remedy and action against the said person or persons, who or whose Attorney or Attornies, as aforesaid, first made and signed the same, or against the indorser or indorsers thereof, as is herein before provided.

III. And be it further enacted by the authority aforesaid, that a Protest shall not be necessary to enable the holder or holders of a Promissory Note, to maintain an action against the person or persons who or whose Attorney or Attornies as aforesaid, first made and signed the same, for the principal sum due on such Promissory Note, and interest thereon, if therein expressed; but if a Promissory Note does not express that it shall bear interest, such Note being duly protested, interest shall be due thereon from the date, of the Protest.

IV. Provided always and it is further enacted, that no holder or holders of a Promissory Note, under an indorsement or assignment as aforesaid, shall maintain his, her or their action against an indorser or indorsers thereon, unless payment of such Promissory Note, shall have been demanded of the person or persons who or whose Attorney or Attornies, as aforesaid, first made and signed the same, and upon refusal thereof, a Protest for non-payment shall have been made after the third and before the expiration of the sixth day, after the same shall have become due: and that notice of such non-payment and Protest shall have been sent so such indorser or indorsers, or to the usual place or places of his, her or their residence, within ten days, if such place of residence is not more than ten leagues distant from the place where such Note shall be protested; and after the rate of one day more for every five leagues, that the place of residence of such indorser or indorsers may be further distant, if it is within that part of this Province lying between the Long Sault, on the Ottawa River [Ottawa River] to the Westward and the Eastern boundary of the Seigniories of Rimouski and Mal-Bay to the Eastward; and if such place of residence is without the foregoing limits, or out of the Province, then in such reasonable time, as the distance of such place of residence and the nature of the intermediate communication may require.

V. And be it further enacted by the authority aforesaid, that to maintain an action for payment of any Promissory Note, it shall not be necessary that the particular species of value received for the same, be therein specified, but only that value has been received.

VI. Provided always, that nothing herein contained shall extend, or be construed to extend, to repeal or make void any law, usage or custom, against Promissory Notes granted for usurious or unlawful considerations, or for money won by gaming, or lent knowingly for the purpose of gaming.

VII. And be it further enacted by the authority aforesaid, that in places where there is not a Notary, a Protest may be made by a Justice of the Peace before two witnesses, which shall be, to all the intents and purposes of this Act, as valid as if it had been made by a Notary and witnesses; and every Protest shall be written underneath a copy of the Promissory Note, and the indorsement or indorsements thereon.

VIII. And be it further enacted by the authority aforesaid, that every Promissory Note, already made and due, shall be taken and considered to be paid and discharged, if no suit or action is brought thereon, within three Years from and after the passing of this Act: and every such Promissory Note already made but not due, or that shall hereafter be made, shall be taken and considered to be paid and discharged, if no suit or action is brought thereon, within five years next after the day on which such Promissory Note shall become due and payable: Provided always, that every debtor or debtors on such Promissory Note, shall, if thereunto required, make oath, that such Promissory Note is bona side discharged and paid: and in case of such action being brought against heirs or other representatives, against whom an action may be legally instituted, such heirs or representatives shall, if thereunto required, make oath, that they do believe that such Promissory Note has been, bona fide, paid and discharged.

IX. Provided always, and be it further enacted, that nothing in this Act shall extend, or be construed to extend to render negotiable any Notes whatsoever, that are not subscribed, in the hand writing of the person making the same, which Notes not subscribed, although bearing the ordinary mark, shall not be proveable but by two witnesses, and no other action and decision shall lie thereupon, but such as are established by the laws, customs and usages in force in this Province.