

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1859.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1859.

22 Victoria – Chapter 21

**An Act to modify the Laws relating to Interest and Usury. Passed 13th April 1859.**

Section.

1. Cap. 102, Rev. Stat. repealed.
2. Interest limited to 6 per cent.; but contract for more not void.
3. Excess to be deducted on suit.

Section.

4. Banks limited to 6 per cent.; forfeiture.
5. How previous contracts to be dealt with.
6. What contracts Act shall not extend to.

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. That from and after the passing of this Act, Chapter 102, Title XXIII, of the Revised Statutes, 'Of Interest and Usury,' be and the same is hereby repealed, except as hereinafter provided by the fifth Section of this Act.
2. No person shall directly or indirectly receive on any contract to be made for the loan of any money or goods, more than six pounds for the forbearance of one hundred pounds for one year, and after that rate for a greater or lesser sum, and a longer or shorter time; but no deed or contract for payment of any money hereafter loaned, or for the forbearance of any thing undertaken, upon or by which more than such rate of interest shall be reserved or received, shall be hereafter deemed void.
3. In any action brought on any contract whatsoever, in which there is directly or indirectly taken or reserved a rate of interest exceeding that authorized in Section second, the defendant, or his attorney, may under the general issue, with notice of defence as in other cases, prove such excessive interest, and it shall be deducted from the amount due on such contract.
4. Provided always, that it shall not be lawful for any Bank incorporated by an Act of the Legislature of this Province, or by Royal Charter, to stipulate for, take, reserve, or exact a higher rate than six per cent. per annum; and whenever any such Bank shall, upon any such deed or contract, receive or reserve, by means of any loan, bargain, exchange, or transfer of any money or goods, or by any deceitful means, for the forbearing, or giving day of payment beyond a year, of its money or goods, more than six pounds for one hundred pounds for one year, and after that rate for a greater or lesser sum, and longer or shorter time, it shall forfeit for every offence the value of the principal sum or goods so loaned, bargained, exchanged, or transferred, together with all interest and other profits accruing therefrom, one moiety to be paid to the Queen for the use of the Province, and the other moiety to the person suing for the same, to be recovered by any action in any Court of Record in the County where the offence may be committed; which action shall be brought within twelve months from the time of such offence.

5. Nothing in this Act shall extend to or be construed to extend to contracts or securities entered into before the passing of this Act, or to legalize any usurious contract, security, or loan, made, entered into, given, or taken before the passing of this Act, but all such contracts, securities, or loans, shall be construed, considered, and dealt with as well in civil suits as in proceedings for penalties, as if this Act had not been passed} and for all such cases, Chapter 102, of Title XXIII, of the Revised Statutes, 'Of Interest and Usury,' shall be considered in force and unrepealed.

6. That nothing in this Act contained shall extend or be construed to extend to Bottomry Bonds or Contracts on the bottom of any Vessel, damages, or protested Bills allowed by law, penalties incurred for the non-fulfilment of any contract where such penalties are mutually binding, and contracts for the loan or hire of any grain, cattle, or live stock, let out as the parties may agree, if the lender takes the risk of casualties upon himself, in which case the borrower shall not avail himself of any loss suffered through his wilful neglect, or any voluntary damage which may be committed by him.