

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart Derbyshire & George Desbarats, 1849.

12 Victoria – Chapter 10

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. 25th April, 1849.

Whereas it is desirable to avoid, by the establishment of some general rules for the interpretation of Acts of the Provincial Parliament, the continual repetition therein of words, phrases and clauses, which are rendered necessary solely by the want of such rules, and also to provide for the date and commencement of such Acts being known with certainty: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United, Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the government of Canada*, and it is hereby enacted by the authority of the same, That this Act shall be known, cited and referred to as "The Interpretation Act," and that each provision thereof shall extend and, apply to each Act passed in this present Session: or in any future Session of the Provincial, Parliament, except in so far as any such provision shall be inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression of clause shall be inconsistent with the context; and except in so far as this Act or any provision thereof shall in any such Act be declared not applicable thereto; nor shall the omission in any Act of a declaration that this Act shall apply thereto, be construed to prevent its so applying, although such express declaration may be inserted in some other Act or Acts of the same Session.

II. And be it enacted, That the Clerk of the Legislative Council shall endorse on every Act of the Parliament of this Province 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.

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.

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:

First. 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.

Secondly. 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.

Thirdly. 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.

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

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

Sixthly. 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, 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.

Seventhly. 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.

Eighthly. 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.

Ninthly. The words writing, "written," or any term of like import, shall include words printed, painted, engraved, lithographed, or otherwise traced or copied.

Tenthly. The words "now" or "next," 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.

Eleventhly. The word "month" shall mean a calendar month.

Twelfthly. 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.

Thirteenthly. 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 affirmation may be made instead of an oath: and in every case where an oath or affirmation is directed to be made before any person or officer, such person or officer shall have full power and authority to administer the same and to certify its having been made; and the wilful making of any false statement in any such oath or affirmation, shall be wilful and corrupt perjury, and the wilful making of any false statement in any declaration required or authorized by any such Act as aforesaid, shall be a misdemeanor punishable as wilful and corrupt perjury.

Fourteenthly. The words "Registrar" or "Register" in any such Act, applying to the whole Province, shall mean and include indifferently both Registrars in Lower Canada and Registers in Upper Canada, and their Deputies, respectively.

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

Sixteenthly. Whenever any wilful contravention of any such Act shall be made an offence of any particular kind or name, the person guilty of such contravention shall, on conviction thereof, be punishable in the manner in which such offence is by law punishable.

Seventeenthly. Whenever any pecuniary penalty or any forfeiture is imposed for any contravention of any such Act as aforesaid, then if no other made be prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Crown only, or of any private party suing as well for the Crown as for himself, in any form allowed in such case by the law of that part of the Province where sit shall be brought, before any Court having jurisdiction to the amount of the penalty in cases of simple contract, upon the

evidence of anyone credible witness other than the 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.

Eighteenthly. 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.

Nineteenthly. 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.

Twentiethly. 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 be directed to be done by or 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 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.

Twenty-firstly. 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.

Twenty-secondly. 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.

Twenty-thirdly. 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.

Twenty-fourthly. 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 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.

Twenty-fifthly. 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.

Twenty-sixthly. 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.

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

Twenty-eighthly. The Preamble of every such Act as aforesaid shall be deemed a part thereof intended to assist in explaining the purport and object of the Act; and every such Act and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport be to direct the doing of any thing which the Legislature may deem to be for the public good or to prevent or punish the doing of any thing which it may deem contrary to the public good, and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure

the attainment of the object of the Act and of such provision or enactment, according to their true intent, meaning and spirit.

Twenty-ninthly. Nothing in this Act shall be construed to exclude the application to any such Act as aforesaid, of any Rule. of Construction applicable thereto, and not inconsistent with this Act, or to exclude the application of any Rule of Construction in this Act to any Act passed in any Session before the present, if without this Act such Rule would have been applicable thereto.

Thirtiethly. The provisions of this Act shall apply to the construction thereof and of the words and expressions used therein.

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