

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

12 Victoria – Chapter 76

An Act to regulate the Rates of Damages on Protested Bills of Exchange in Upper-Canada. 30th May, 1849.

Whereas it is expedient for the purposes of Commerce that the law regulating the Rates of Damages on Protested Bills of Exchange in Upper-Canada should be better defined: 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, and 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 from and after the passing of this Act, the Rate of Damages to be allowed and paid upon the usual protest for non-payment of Bills of Exchange drawn, sold or negotiated within Upper-Canada, and although the same may not have been drawn on or by any person residing therein, shall in the following cases be as follows:

First. If such Bill shall have been drawn upon any person or persons at any place in Europe or in the West Indies, or in any part of America not within this Province or any other British North American Colony, and not within the Territory of the United States, ten per cent, upon the principal sum specified in such Bill.

Secondly. If such Bill shall have been drawn upon any person or persons in any of the other British North American Colonies, or in the United States, four per cent, upon the principal sum specified in such Bill; and in each and every of the foregoing cases, such Bill shall also be subject to six per centum per annum of interest on the amount for which the Bill is drawn, to be reckoned from the day of the date of the protest to the time of repayment, which amount shall be reimbursed to the holder at the current rate of Exchange of the day when the protest for non-payment shall be produced and repayment demanded, that is to say: the holder of any such Bill returned under protest for non-payment, shall be entitled to demand and recover from the drawer or endorsers thereof, so much current money of this Province as shall then be equal to the purchase of another Bill of the like amount, drawn on the same place, at the same date or sight, together with the damages and interest above mentioned, as also the expenses of noting and protesting the Bill, and all other charges and postages incurred thereon.

II. And be it enacted, That damages at the rate of four per cent, upon the principal sum specified therein, shall be allowed and paid upon the protest of every promissory note made or negotiated within Upper-Canada, and payable only at some place in the United States of America, or in any of the British North American Colonies except Canada, and not otherwise or elsewhere, and that such principal sum together with interest thereon at the rate of six per centum per annum, to be reckoned from the day of the date of the protest shall be reimbursed to the holder at the current

rate of exchange of the day when the protest shall be produced and repayment demanded, that is to say: the holder of any such note returned under protest, shall be entitled to demand and recover from the maker or endorsers thereof so much current money of this Province as shall then be equal to the purchase of a Bill of Exchange of the like amount drawn on the same place at the same date or sight, together with the damages and interest above mentioned, and also the expense of protesting the note, and all charges and postages incurred thereon.

III. And be it enacted, That when the protest of a bill or note returned for non-payment shall, by the holder thereof, be notified to the drawer, maker or endorser in person, or in writing delivered to a grown person at his or their counting house or dwelling house, and they disagree about the then rate of Exchange for Commercial Bills, the holder and the drawer, maker or endorser so notified, or any one of them, may apply to the President or in his absence the Secretary of any Board of Trade or Chamber of Commerce in the City or Town, in which the holder of such protested bill or note, or his Agent may reside or in the City or Town nearest to the residence of such Holder or Agent, and obtain from such President or Secretary a certificate in writing under his hand, stating the said rate of exchange, and the rate stated in such certificate shall be final and conclusive as to the then rate of exchange, and regulate the sum to be paid accordingly.

IV. And be it enacted, That all Bills, Drafts or Orders drawn by persons in Upper-Canada, on persons in this Province, or Promissory Notes made or negotiated in Upper-Canada, if protested for non-payment, shall be subject to six per centum per annum of interest from the date of the protest, or if interest be therein expressed as payable from a particular period, then from such period to the time of payment; and that in such cases of protest the expense of noting and protesting, and the postages thereby incurred, shall be allowed and paid to the holder, over and above the said interest.

V. And be it enacted, That in any action brought to recover the amount of any Bill, Draft, Order or Promissory Note, and the damages herein allowed, and the interest, expenses of noting and protesting, and all other charges and postages incurred thereon, specified and mentioned in the preceding sections of this Act, it shall not be necessary to declare specially for such damages, expenses, charges and interest, but the same shall be allowed to the Plaintiff at any trial, assessment or computation, as if the same had been specially declared for.

VI. And be it enacted, That from and after the passing of this Act, the second, third, fourth and fifth Sections of the Act of the Legislature of the late Province of Upper-Canada, passed in the fifty-first year of the Reign of King George the Third, and intituled, *An Act to repeal an Ordinance of the Province of Quebec, passed in the seventeenth year of His Majesty's Reign, intituled, An Ordinance for ascertaining damages on Protested, Bills of Exchange, and fixing the rate of interest in the Province of Quebec: Also to ascertain damages on Protested Bills of Exchange, and fixing the rate of interest in this Province,*—be, and the same are hereby repealed.