

THE  
NEW  
STAMP ACT,  
WITH  
NOTES AND TABLE.

MONTREAL :

1864.

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## PREFACE.

The Act of the Canadian Parliament imposing a duty on Promissory Notes and Bills of Exchange, comes into operation on the 1st of August next.

The mercantile public are familiar with the operations of kindred Acts in other countries where such duties have been in existence for very many years. As, however, the Act now about to come into force is the first imposing these duties in this country, it has been thought that it might prove acceptable to business men, issued by itself, with notes bearing upon its construction.

Clause 7 is highly beneficial, since it is thereby provided that the Governor in Council may, by order, in the event of doubts as to the liability to duty of any particular instrument declare whether the same is or is not chargeable under the Act.

The compiler would venture the remark that, this Act bears the marks of considerable skill in its preparation the intention of the draftsman seeming to be to protect the revenue with as little trouble to the public in ascertaining their liabilities as was practicable.

The Act is given in these pages, of course, in the exact form in which it is issued ; but the compiler has prefaced each section with an epitome of its contents in large type; these headings of course form no part of the Act itself.

Montreal, July, 1884.

# An Act to impose duties on Promissory Notes and Bills of Exchange.

## PREAMBLE.

WHEREAS it is necessary to increase the Provincial Revenue, and for that purpose to impose and provide for the collection of the duty hereinafter mentioned : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows.

### DUTIES IMPOSED -- INSTRUMENTS UNDER \$100 EXEMPT

-- INSTRUMENTS MADE, DRAWN OR ACCEPTED AFTER 1ST AUGUST, 1864, ONLY AFFECTED -- RATES ON BILLS, &C., EXECUTED SINGLY, IN DUPLICATE, THRIPLICATE AND OTHERWISE.

1. Upon and in respect of every Promissory Note, (a) Draft (b) or Bill of Exchange, (c) for an amount not less than one hundred dollars, made, drawn or accepted in this Province, on or after the 1st day of August in the present year one

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(a) "A promissory note is an absolute promise in writing, signed but not sealed to pay a specified sum at a time therein limited, or on demand, or at sight, to a person therein named or to his order or to the bearer." Byles on Bills 4th Am. Ed. p62.

A note payable to the maker's order, and afterwards indorsed is a promissory note.

A Bank note is a promissory note made by the Banker, payable to bearer on demand, and intended to circulate as money. By the 4th section of this Act however these notes are specially exempted.

The words "value received" are no essential part of a note.

No precise words of contract are essential in a promissory note provided they amount in legal effect to a promise to pay. In England "I promise to account with A, or order, for \$50 value received by me," has been held a good note. So a declaration by A that he owed B a certain sum to be paid to him on demand. And even a letter may contain words sufficient to make it a promissory note.

A joint and several note has for some purposes been decided to constitute in reality several notes. But the simple language of the 1st section would seem to leave no doubt that the duty is to be calculated on each note, whether the note of an individual, or expressly, or by construction of law, a joint and several note.

thousand eight hundred and sixty-four, there shall be levied, collected and paid to Her Majesty for the public uses of the Province, the duties therinafter mentioned, that is to say:

On each such Promissory note, and on each such Draft or Bill of Exchange executed singly, a duty of three cents, for the first hundred dollars of the amount thereof, and a further duty of three cents for each additional hundred dollars or fraction of a hundred dollars of the amount thereof;

On each such Draft or Bill of Exchange executed in duplicate, a duty of two cents on each part for the first hundred dollars of the amount thereof, and a further duty of two cents for each additional hundred dollars or fraction of a hundred dollars of the amount thereof ;

On each such Draft or Bill of Executed in more than two parts, a duty of one cent on each part for the first hundred dollars of the amount thereof and a further duty of one cent for each additional hundred dollars or fraction of a hundred dollars of the amount thereof.

And any interest made payable at the maturity of any bill, draft or note, with the principal sum, shall be counted as part of the amount thereof.

DUTY TO BE PAID BY AFFIXING ADHESIVE STAMP -- STAMP TO BE DEFACED BY MAKER, DRAWER, ACCEPTER, OR FIRST ENDORSER, AND HOW.

2. The duty on any such Promissory Note, Draft, Bill of Exchange or part thereof, shall be paid by affixing thereto an adhesive stamp or adhesive stamps of the kind hereinafter

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(b) The word "draft" would unquestionably include checks, but by the 4th section checks upon any chartered Bank or licensed banker or on any Savings Banks if *payable on demand* are exempted.

(c) "A Bill of Exchange is a written order from A to B directing (or requesting) B to pay C a sum of money therein named.  
Byles on Bills p. 55.

mentioned, to the value of such duty, upon which the signature or part of the signature of the maker or drawer, or in the case of a Draft or Bill made or drawn out of this Province of the acceptor or first indorser in this Province, or his initials, or some integral or material part of the instrument shall be written, so as, (as far as may be practicable) to identify each stamp with the instrument to which it is attached, and to show that it has not before been used, and to prevent its being thereafter used for any other instrument. (d)

MEANING OF BILL OF EXCHANGE OR DRAFT -- LETTERS OF CREDIT AND CERTAIN KINDS OF RECEIPTS CHANGEABLE.

3. Every bill, draft, order or instrument,--

For the payment of any sum of money by a bill or promissory note, whether such payment be required to be made to the bearer or to order,

Every document usually termed a letter of credit, or whereby any person is entitled to have credit with or to receive from or draw upon any person for any sum of money,--

And every receipt for money, given by any bank or person, which shall entitle the person paying such money or the bearer of such receipt to receive the like sum from any third person, --(e)

Shall be deemed a bill of exchange or draft chargeable with the duty under this Act.

COMMISSARIAT AND GOVERNMENT BILLS, &C., BANK NOTES, POST OFFICE ORDERS, MUNICIPAL DEBENTURES AND COUPONS EXEMPTED.

4. Every bill of exchange, draft or order drawn by any officer

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(d) It would seem that a Bill drawn abroad though duly stamped there must again be stamped here, and of course a bill drawn here payable abroad must be stamped here.

(e) A deposit receipt would not appear to the compiler to be chargeable with duty under this section. But the wording of such a document might render it liable.

of Her Majesty's Commissariat; or by any other officer in Her Majesty's Imperial or Provincial Service, in his official capacity, or any acceptance of endorsement by such officer on a bill of exchange drawn out of Canada, or any draft of or on any Bank payable to the order of any such officer in his official capacity as aforesaid, or any note payable on demand to bearer issued by any chartered Bank of this Province, or by any Bank issuing such note under the Act chapter 55 of the Consolidated Statutes of Canada, intituled: *An Act respecting Banks and freedom of banking*, shall be free from duty under this act,--

Any cheque upon any chartered Bank or Licenced Banker, or on any Savings Bank, if the same shall be payable on demand,--

Any post office money order,--and

Any municipal debentures or coupon of such debenture-- shall be free of duty under this Act.

#### PREPARATION OF STAMPS--VALUE TO THE APPEAR THEREON.

5. The Governor in Council may from time to time direct stamps to be prepared for the purposes of this Act, of such of such kinds and bearing respectively such device as he thinks proper, and may defray the cost thereof out of any unappropriated moneys forming part of the Consolidated Revenue Fund; but the device on each stamp shall express the value thereof, that is to say, the sum at which it shall be reckoned in payment of the duties hereby imposed.

#### SALE OF STAMPS--REMUNERATION THEREFOR.

6. The Minister of Finance may appoint any Postmasters, Collectors of Inland Revenue, or other officers of the Government, to be the distributors of stamps under this Act, and may authorize any other persons to purchase stamps from such distributors to sell again ;--- and the Governor in Council may fix the remuneration to be allowed to such distributors,

and the discount to be made to persons so purchasing to sell again; but such discount shall in no case exceed five per cent on the value of such stamps, and shall not be allowed on any quantity less than one hundred dollars worth.

GOVERNOR IN COUNCIL MAY DECLARE IF INSTRUMENT CHARGEABLE UNDER THIS ACT--ORDER MAY BE AMENDED--PUBLICATION AND PROOF THEREOF.

7. The Governor in Council may make such further regulations as he may deem necessary for carrying this Act into effect, and may by any order in Council declare that any kind or class of instruments as to which doubts may arise, are or are not chargeable with any and what duty under this Act according to the true meaning thereof; and any order in Council made under this Act may be explained, amended or repealed by any other such order of later date; and any order in Council under this Act shall be published, and may be proved, in the manner provided by the Act respecting duties of Customs and the collection thereof, as to orders in Council under that Act.

STAMP TO BE AFFIXED BY MAKER OR DRAWER OF INLAND BILL, &C.--ACCEPTOR OR FIRST INDORSER OF FOREIGN--PENALTY OR OMISSION AT TIME TO STAMP SUFFICIENTLY.

8. The stamp or stamps required to pay the duty hereby imposed shall in the case of any Promissory Note, Draft or Bill of Exchange made or drawn within this Province, be affixed by the maker or drawer thereof, and in the case of any Draft or Bill of Exchange drawn out of this Province, by the acceptor thereof or the first indorser thereof in this Province; and such maker or drawer, acceptor or first indorser, failing

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(f) This, though an unusual provision, will surely be a great benefit to the mercantile community. Stamp Acts have proved fertile sources of litigation elsewhere, but under this section such litigation would seem likely to be small in the case of this Act.

to affix such stamp or stamps at the time of making, drawing accepting or indorsing such Note, Draft or Bill, or affixing stamps of insufficient amount, shall thereby incur the penalty hereinafter imposed, and the duty payable on such instrument, or the duty by which the stamps affixed fall short of the proper amount, shall be doubled. (g)

~~PARTY TO BILL NOT PROPERLY STAMPED INCURS PENALTY OF \$100-  
INSTRUMENT INVALID--SUBSEQUENT PARTY MAY PAY DOUBLE  
DUTY AND MAKE IT VALID--DEFAULTER NOT THERBY RELEASED  
FROM PENALTY.~~

9. If any person within this Province makes, draws, accepts, indorses, signs, becomes a party to or pays any promissory note, draft or bill of exchange, chargeable with duty under this Act, before such duty (or double duty as the case may be) has been paid by affixing thereto the proper stamp or stamps, such person shall thereby incur a penalty of one hundred dollars, and except only in case of the payment of double duty as hereinafter mentioned, such instrument shall be invalid and of no effect in law or in equity, and the acceptance or payment or protest thereof shall be of no effect except that any subsequent party to such instrument or person paying the same, may at the time of his so paying or becoming a party thereto, pay such double duty by affixing to such instrument a stamp or stamps to the amount thereof, or the amount of double the sum by which the stamps affixed fall short of the proper duty, and by writing his signature or part thereof or his initials on such stamp or stamps, to the manner and for the purposes mentioned in the second section of this Act; and such instrument shall thereby become valid, but no prior party who ought to have paid the duty thereon shall be released from the penalty by him incurred as aforesaid; and in suing for any such penalty, the fact that no part of the signature

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(g) Vide section 9.

of the party charged with neglecting to affix the proper stamp or stamps is written over the stamp or stamps affixed to any instrument, shall be *prima facie* evidence that such party did not affix such stamp as required by this Act.

USING STAMP ALREADY USED A MISDEMEANOR--PENALTY \$500.

10. If any person willfully affixes to any promissory note; draft or bill of exchange, any stamp which has been previously affixed to any other, or used for the purpose of paying any duty under this Act or any other Act, or which has been in any way previously written upon or defaced, such person shall be guilty of a misdemeanor, and shall thereby incur a penalty of five hundred dollars.

SEPARATE PENALTY INCURRED BY EACH PERSON TO INSTRUMENT NOT PROPERLY STAMPED.

11. The penalties herein before imposed shall be incurred in respect of each such promissory note, draft or bill of exchange, on which the duty or double duty hereby imposed is not paid as aforesaid, or to which a stamp, previously used, has been fraudulently affixed, whatever be the number of such instruments, executed, accepted, paid or delivered, or offences committed on the same day; and a separate penalty to the full amount shall be incurred by each person committing such offence, whatever be the number of such persons.

PENALTIES RECOVERABLE UNDER INTERPRETATION ACT.

12. The penalties imposed by the foregoing sections of this Act, shall be recoverable in the manner prescribed by the Interpretation Act in cases where penalties are imposed and the recovery is not otherwise provided for. (h)

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(h) *Consol. Stat. of Canada, cap. 5. See section 6 17th and 18th.*

The penalty is recoverable with costs by civil action at suit of the Crown or any person suing for the Crown and himself before court of jurisdiction to that amount in cases of simple contract. If private person sues, one-half penalty belongs to him.

FORGING STAMPS, USING OR SELLING FORGED STAMP, ENGRAVING OR USING PLATE OR DIE WITHOUT PERMISSION, TEARING OFF STAMP FROM INSTRUMENT OR REMOVING WRITING THEREFROM--FELONY PUNISHABLE WITH IMPRISONMENT FOR 21 YEARS, AND WITHIN CONSOL. STAT. CAN. CAP 94.

13. If any person forges, counterfeits or imitates or procures to be forged, counterfeited or imitated any stamp issued or authorized to be used for the purposes of this Act or by means whereof any duty hereby imposed may be paid, or any part or portion of any such stamp,-- or knowingly uses, offers, sells or exposes to sale, any such forged, counterfeited or imitated stamp,--or engraves, cuts, sinks or makes any plate, die or other thing whereby to forge, counterfeit or imitate such stamp or any part or portion thereof, except by permission of the Minister of Finance or of some Officer or persons who, under an Order in Council in that behalf, may lawfully grant such permission -- or has possession of any such plate, die or other thing, without such permission,-- or, without such permission uses or has possession of any such plate, die or thing lawfully engraved, cut or made, or tears off or removes from any instrument, on which a duty is payable under this Act, any stamp by which such duty has been wholly or in part paid,-- or removes from any such stamp any writing or mark indicating that it has been used for or towards the payment of any such duty,-- such person shall be guilty of felony and shall on conviction be liable to be imprisoned in the Provincial Penitentiary for any term not exceeding twenty-one years; and every such offence shall be forgery within the meaning and purview of chapter ninety four of the Consolidated Statutes of Canada, intituled: An Act respecting Forgery, and all the a provisions of that Act shall apply to every such offence, and to principals in the second degree and accessories, as if such offence were expressly mentioned in the said Act.

DUTIES IMPOSED TO FORM PART OF CONSOLIDATED FUND, &c.

14. The duties imposed by this Act shall be duties within the meaning and purview of chapter sixteen of the Consolidated Statutes of Canada, intituled: An Act respecting the collection and management of the Revenue, the auditing of Public Accounts and the liability of Public Accountants, and the proceeds of the said duties shall form part of the Consolidated Revenue Fund of this Province.

TABLE OF DUTIES  
ON BILLS OF EXCHANGE, DRAFTS & PROMISSORY  
NOTES.

*For Exemptions vide the Act, s.4.*

*Instruments for less than \$100 are exempt (see 1.)*

*In computing the duty it must be borne in mind that any interest payable at maturity with the principal is to be counted as part of the amount (sec. 1.)*

AMOUNT				Executed singly.	In duplicate on each part.	In more than two parts on each part.
	\$100			\$0.03	\$0.02	\$0.01
Over	\$100 and not exceeding	\$200		0.06	0.04	0.02
"	200	"	300	0.09	0.06	0.03
"	300	"	400	0.12	0.08	0.04
"	400	"	500	0.15	0.10	0.05
"	500	"	600	0.18	0.12	0.06
"	600	"	700	0.21	0.14	0.07
"	700	"	800	0.24	0.16	0.08
"	800	"	900	0.27	0.18	0.09
"	900	"	1000	0.30	0.20	0.10
"	1000	"	1100	0.33	0.22	0.11
"	1100	"	1200	0.36	0.24	0.12
"	1200	"	1300	0.39	0.26	0.13
"	1300	"	1400	0.42	0.28	0.14
"	1400	"	1500	0.45	0.30	0.15
"	1500	"	1600	0.48	0.32	0.16
"	1600	"	1700	0.51	0.34	0.17
"	1700	"	1800	0.54	0.36	0.18

AMOUNT				Executed singly.	In duplicate on each part.	In more than two parts on each part.	
Over	\$1800	and not exceeding	\$1900	0.57	0.38	0.19	
"	1900	"	"	2000	0.60	0.40	0.20
"	2000	"	"	2100	0.63	0.42	0.21
"	2100	"	"	2200	0.66	0.44	0.22
"	2200	"	"	2300	0.69	0.46	0.23
"	2300	"	"	2400	0.72	0.48	0.24
"	2400	"	"	2500	0.75	0.50	0.25
"	2500	"	"	2600	0.78	0.52	0.26
"	2600	"	"	2700	0.81	0.54	0.27
"	2700	"	"	2800	0.84	0.56	0.28
"	2800	"	"	2900	0.87	0.58	0.29
"	2900	"	"	3000	0.90	0.60	0.30
"	3000	"	"	3100	0.93	0.62	0.31
"	3100	"	"	3200	0.96	0.64	0.32
"	3200	"	"	3300	0.99	0.66	0.33
"	3300	"	"	3400	1.02	0.68	0.34
"	3400	"	"	3500	1.05	0.70	0.35
"	3500	"	"	3600	1.08	0.72	0.36
"	3600	"	"	3700	1.11	0.74	0.37
"	3700	"	"	3800	1.14	0.76	0.38
"	3800	"	"	3900	1.17	0.78	0.39
"	3900	"	"	4000	1.20	0.80	0.40
"	4000	"	"	4100	1.23	0.82	0.41
"	4100	"	"	4200	1.26	0.84	0.42
"	4200	"	"	4300	1.29	0.86	0.43
"	4300	"	"	4400	1.32	0.88	0.44
"	4400	"	"	4500	1.35	0.90	0.45
"	4500	"	"	4600	1.38	0.92	0.46
"	4600	"	"	4700	1.41	0.94	0.47
"	4700	"	"	4800	1.44	0.96	0.48
"	4800	"	"	4900	1.47	0.98	0.49
"	4900	"	"	5000	1.50	1.00	0.50

EXAMPLE--A Note for \$2,637.74 if executed singly, would required to be stamped with 81 cents ; if executed in duplicate, each part with 54 cents ; if in more than two parts, each part with 27 cents.