

The Provincial Statutes of Lower-Canada, Being the first session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, the eighteenth day of April, 1838. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1838.

1 Victoria – Chapter 23 (Session 1)

An Ordinance to authorize the Commissioners appointed under a certain Act of the Legislature of this Province therein mentioned, to borrow a further sum of money to be applied to the improvement and enlargement of the Harbour of Montreal, and for other purposes.

Whereas it is necessary to provide further for more fully carrying into effect a certain Act of the Legislature of this Province, passed in the tenth and eleventh years of the reign of His late Majesty George the Fourth, intituled, "An Act to provide for the improvement and enlargement of the Harbour of Montreal," and a certain other Act of the Legislature of this Province, passed in the second year of the reign of His late Majesty King William the Fourth, intituled, "An Act to authorize the Commissioners appointed under a certain Act therein mentioned, to borrow a further sum of money to be applied to the improvement and enlargement of the Harbour of Montreal, and for other purposes;" — Be it therefore Ordained and Enacted, by the Administrator of the Government of this Province, authorized to execute the Commission of the Governor thereof, by and with the advice and consent of the Special Council for the affairs of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the First Year of the Reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada;" — And it is hereby Ordained and Enacted, by the authority aforesaid, that it shall be law for the Commissioners appointed under the authority of the said Acts, for the purpose of defraying the expenses attending the execution of the work mentioned in the said Acts, to borrow, with the approbation and consent of His Excellency the Governor or the Administrator of the Government of this Province, for the time being, from time to time, at the legal rate of interest, or on more advantageous terms if it be in their power, and as the same may become necessary for the purposes aforesaid, any sum or sums of money not exceeding in the whole forty thousand pounds currency, over and above the sums which the said Commissioners are by the said Acts, or by a certain other Act of the said Legislature, passed in the first year of the reign of His late Majesty King William the Fourth, authorized to borrow for the said purpose.

II. And be it further Ordained and enacted by the authority aforesaid, that it shall and may be lawful for the said Commissioners, from and after the passing of this Act, in the improvement and enlargement of the said Harbour of Montreal, to proceed to the entire execution of the plan of Captain Piper, of which mention is made in the second section of the aforesaid Act first above mentioned; and to the completion of all and every the works which may be necessary for such entire execution of the said plan.

III. And be it further Ordained and Enacted by the authority aforesaid, that it shall and may be lawful for the said Commissioners to carry on the level of Commissioner Street and the prolongation thereof, according to the plan and level of Captain Piper, hereinbefore mentioned; and from and out of the monies to be borrowed as aforesaid, to indemnify any proprietor or proprietors of buildings and dwellings for any injury or damage which they may sustain in consequence of such alteration in the levels.

IV. And whereas it is expedient that provision should be made for the due payment of the interest of the money so borrowed, until the work shall be executed, and Wharfage and other dues collected, out of which the said interest may be paid;—Be it therefore further Ordained and Enacted, that it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government of this Province, to authorize, by Warrant under his hand, the advances, to the said Commissioners, of such sum out of the unappropriated monies in the hands of the Receiver General, as may be necessary to enable the said Commissioners to pay the said interest; and such advances shall be made in the months of January and of July in each and every year, and the said Commissioners shall immediately pay over the sums of money so advanced to the persons to whom such interest may be due.

V. And whereas it may be deemed necessary and expedient for the greater improvement, utility and convenience of the said Harbour, and for the more easy communication between the City and the Harbour, that certain dwelling houses, land and premises, erected and being on the south side of the Old Market Place, and between the said Market Place and the River, should be purchased and vested in the said Commissioners and their successors, for the purposes of the said Acts and of this Ordinance; and also that certain pieces and parcels of land contiguous to the said Harbour, should be in like manner purchased and vested as aforesaid, for the purpose of widening and prolonging the Street called Commissioner Street, in front of the said Harbour;—Be it therefore Ordained and Enacted by the authority aforesaid, that the said Commissioners or their successors, at any time or times hereafter, may, and they are hereby authorized and empowered to contract, compound, compromise and agree with the owners and occupiers of the said dwelling houses, land and premises, pieces and parcels of land, or any part of them, for the purchase thereof; and it shall and may be lawful for all persons whomsoever, bodies politic and corporate, guardians, curators, fiduciary legatees and trustees whatsoever, for themselves, their heirs and successors, and for and on behalf of those whom they represent or for whom they act, whether infants, lunatics, idiots, femmes couvertes, or other person or persons whomsoever, who are or shall be seized of, or possessed of, or entitled to such dwelling houses, land and premises, pieces and parcels of land as aforesaid, to contract for, sell, and convey the same to the said Commissioners and their successors, for such price and prices or consideration, as may be agreed upon between them the said parties respectively.

VI. And be it further Ordained and Enacted by the authority aforesaid, that in all cases where the said Commissioners or their successors, and the said owners and occupiers of the premises aforesaid, or of any part thereof, shall not by voluntary agreement, settle and

determine the price and prices, compensation and compensations to be paid for the said premises or any part thereof, such price and prices, compensation and compensations, shall be ascertained, fixed and determined, by the award of Arbitrators in manner following, that is to say:—The said Commissioners or their successors shall and may nominate and appoint one Arbitrator, being an in-different and disinterested person, and the said owners or occupiers respectively shall and may nominate and appoint one or other Arbitrator, being also an indifferent and disinterested person, and the said two Arbitrators, before proceeding to act as such Arbitrators, shall and may appoint a third Arbitrator, being likewise an indifferent and disinterested person, which said three Arbitrators, after having been previously sworn before one of the Justices of the Court of King's Bench, for the District of Montreal, well, truly and honestly to execute the trust and duty of Arbitrators, as aforesaid, and after notices to the parties respectively, of the time and place of their meeting, shall proceed to ascertain, fix and determine the price or prices, compensation or compensations, to be paid by the said Commissioners or their successors, for such dwelling houses, land and premises, pieces and parcels of land aforesaid; and the award of any two of the said Arbitrators, to be named and appointed as aforesaid, in and respecting the premises aforesaid, shall be final.

VII. And be it further Ordained and Enacted by the authority aforesaid, that in case the said owners or occupiers of the said dwelling houses, lands, premises, pieces and parcels of land, or any of them, after due notice in this behalf from the said Commissioners or their successors, shall refuse or neglect to name and appoint an Arbitrator as aforesaid, being an indifferent and disinterested person, as aforesaid, or if the two Arbitrators named and appointed as aforesaid, shall refuse and neglect to name and appoint a third Arbitrator as aforesaid, it shall be lawful in such cases respectively, for one of the Justices of the Court of King's Bench for the District of Montreal, on application in this behalf by the said Commissioners or their successors, to name and appoint, instead of such owner or occupier so refusing or neglecting, an Arbitrator on his behalf, or such third Arbitrator, to supply the place of the nomination which ought to have been made by the two Arbitrators previously appointed; and the Arbitrator and third Arbitrator so as aforesaid to be appointed by such Justice as aforesaid, after having been respectively sworn by such Justice, well, truly, and honestly to execute the trust and duty of Arbitrator, and third Arbitrator as aforesaid, shall have the same power and authority in the premises, and their award shall have the same force and effect, as if such Arbitrator and third Arbitrator had been named and appointed in the manner in the preceding section prescribed as aforesaid.

VIII. And be it further Ordained and Enacted by the authority aforesaid, that on payment of the price or prices, compensation or compensations, to be fixed and determined as aforesaid, or in case of refusal or neglect to accept to same, on the deposit thereof in the hands of the Prothonotary of the said Court of King's Bench for the District of Montreal, for the use of the person or persons entitled to the same, the right of property, title and interest in and to such dwelling houses, land and premises, pieces or parcels of land, for which such price or prices, compensation or compensations shall be payable, shall be divested out of

the owners and occupiers thereof, and the same shall become and be vested in the said Commissioners and their successors, for the purposes of the said Acts and of this Ordinance.

XI. And be it further Ordained and Enacted by the authority aforesaid, that it shall and may be lawful for the said Commissioners or their successors, to pay such price and prices, compensation and compensations as aforesaid, to be agreed upon, fixed and determined as aforesaid, from and out of the sum and sums of money to be borrowed as aforesaid, in pursuance of the provisions of this Ordinance.

X. And be it further Ordained and Enacted by the authority aforesaid, that the due application of the moneys appropriated by this Act shall be accounted for to Her Majesty, her heirs and successors, through the Lords Commissioners of Her Majesty's Treasury, for the time being, in such manner and form as Her Majesty, her heirs and successors shall direct, and that a detailed account of the expenditure of all such moneys shall be laid before the Governor, Lieutenant Governor, or person administering the Government of this Province, on or before the fifteenth day of December, in each and every year.

J. COLBORNE.

Ordained and Enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House, in the City of Montreal, the fifth day of May, in the first year of the Reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, in the Year of our Lord One Thousand Eight Hundred and Thirty-eight.

By His Excellency's Command,
W. B. LINDSAY,
Clerk Special Council.