

The Provincial Statutes of Lower-Canada, Being the fourth session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, fourteenth day of February, 1839. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1839.

2 Victoria – Chapter 8 (Session 4)

An Ordinance to suspend for a limited time certain parts of two Ordinances therein mentioned, as far as the same relate to the City of Montreal, and to establish a Society therein for preventing accidents by Fire.

Whereas experience has shown that the two following Ordinance, that is is to say:—An Ordinance passed in the seventeenth year of the Reign of His late Majesty George the Third, intituled, “An Ordinance for preventing accidents by Fire,” and an Ordinance passed in the thirtieth year of the Reign aforesaid, intituled, “An Act or Ordinance to amend an Act or Ordinance for preventing accidents by Fire, passed in the seventeenth year of His Majesty’s Reign,” are insufficient; And whereas it is necessary to suspend so much of the same as creates and appoints an Overseer to prevent accidents by Fire, and likewise to abolish the said office or appointment of Overseer, as created and established by the said Ordinances, and to direct that the fees, emoluments, and monies, by the said Ordinances, ordered to be paid to him, should be in a different manner paid and applied, that more ample and efficacious means, for preventing conflagrations in the City of Montreal, may be adopted, and in the case of conflagration, for arresting more promptly the progress thereof:—Be it therefore Ordained and Enacted by His Excellency the Governor of the Province of Lower Canada, 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 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 of the same, that from and after the passing of this Ordinance, so much of the said Ordinance, passed in the seventeenth year of the Reign of His late Majesty George the Third, intituled, “An Ordinance for preventing accidents by Fire,” and also of the said Act or Ordinance passed in the thirtieth year of the Reign aforesaid, intituled, “An Act or Ordinance to amend an Actor Ordinance for preventing accidents by Fire, passed in the seventeenth year of His Majesty’s Reign,” as relates only to the establishment and appointment of an Overseer to prevent accidents by Fire for the City, Town and Suburbs of Montreal, shall be, and the same is hereby suspended during the continuance of this present Ordinance, and the said office and appointment of Overseer, to prevent accidents by fire, is hereby abolished, as far as the same regards or relates to the Town and Suburbs of Montreal.

II. And be it further Ordained and Enacted by the authority aforesaid, that from and after the passing of this Ordinance, all the power, authority, obligations, liability, emoluments, remunerations and fees, advantages and perquisites of office, heretofore by the said Ordinances of the seventeenth year of the Reign of King George the Third, and of the

thirtieth year of the Reign of King George the Third respectively, granted to, vested in, and directed to be possessed, had and received by the said Overseer to prevent accidents by Fire, whose officers hereby abolished, shall be, and the same are hereby Ordained and Ordered, and directed to be granted to, vested in, and to be possessed, had and received by and hereafter to be paid to an Association, which it is hereby enacted, shall be established in the City of Montreal, to be named the "Fire Society," which shall be composed of thirteen inhabitants, proprietors of real property in the said City, to the yearly value of twenty-five pounds currency, over and above all charges, to be nominated and appointed by His Excellency the Governor, Lieutenant Governor, or person administering the Government of the said Province for the time being.

III. And be it further Ordained and Enacted by the authority aforesaid, that from and out of the said thirteen inhabitants composing the said Fire Society, one shall be appointed President, by His Excellency the Governor, Lieutenant Governor, or person administering the Government of the said Province for the time being, for the purposes and with the privileges and authority to be hereinafter mentioned; and further, that there shall be attached and belong to the said Society, a person to perform the combined functions of Secretary and Treasurer, which Secretary and Treasurer shall not, under any pretext whatsoever, be a member of the said Association, and shall be named and appointed by the majority of the persons composing the said Fire Society. Also, that in the absence of the President at any necessary meeting of the Association, his place shall be supplied and filled by the senior member present, who shall preside at the meeting, and exercise and enjoy all the functions and privileges of President thereat, and the seigniority of the members of the Association shall be regulated and determined by the order of their appointment, the first-named being held and esteemed the oldest.

IV. And be it further Ordained and Enacted by the authority aforesaid, that from and after the establishment of the said Association, and the appointment of a President, and Secretary Treasurer of the Society, the members shall without delay, apply themselves to frame Bye-Laws, Rules and Regulations for the welfare of the Society, to establish suitable order therein, and to determine the duty of each officer and man under their orders, and that they shall also make such other by Bye-Laws, Rules and Regulations as they shall deem necessary for their own conduct, and that of the officers and men under their direction, when present at fires: Provided always, that such Bye-Laws, Rules and Regulations, be not contrary to the Laws of this Province, nor to any provision of this Ordinance, and that they do not impose any fine exceeding the sum of twenty shillings currency, on persons contravening such Bye-Laws, Rules and Regulations: Provided also, that the Society may change and amend such of the same Bye-Laws, Rules and Regulations as circumstances may require, or repeal them and substitute new ones in their stead; but that such Bye-Laws, Rules and Regulations, amendments or order repealing the same, or any of them, shall not be made or passed, except by a majority of votes of all the members of the Society, duly summoned for that purpose by a written notice from the President, served in person on each member, or left at the domicile of each member, at least two days before the meeting: nor shall the Bye-Laws, Rules, Regulations amendments or order repealing the same, or any of them, be valid, until

they shall have been submitted to the examination of the Court of King's Bench for the said District of Montreal, or to two of the Judges thereof, if in vacation: Provided always that no such Bye-Laws, Rules and Regulations, amendments and repeal, shall be so submitted for examination, until after due notice shall have been given, during two successive weeks, in one or more of the public newspapers published in the said City, one of which will be the Montreal Gazette, of the time at which they are to be submitted for examination and confirmation.

V. And be it further Ordained and Enacted by the authority aforesaid, that the Court of King's Bench, or Judges thereof, as aforesaid, after having heard all the objections to the same, shall annul or disallow any part of the Bye-Laws, Rules, Regulations, amendments, or order repealing the same, or any part thereof, which the said Court, or said Judges thereof, if in vacation, shall consider contrary to this Ordinance, and shall confirm such parts thereof as they shall deem conformable to the true intent and meaning thereof, and when they, or any part of them, shall have been so confirmed, two copies thereof, or of the part so confirmed shall gratuitously and without fee or reward, be made and signed by the Prothonotaries, one of which shall remain of record in their office, with the confirmation, and the other shall be delivered to the Secretary-Treasurer of the said Fire Society: Provided always that the said Bye-Laws, Rules, Regulations, or amendments, shall not be obligatory on any person or persons whomsoever, until they, with the said confirmation, certified by the Prothonotaries shall have been published in the English and French languages, in two or more of the public newspapers in the City of Montreal, one of which shall be the Montreal Gazette, during two successive weeks.

VI. And be it further Ordained and Enacted by the authority aforesaid, that the Fire Society, convoked as aforesaid, shall fix the annual allowance to be made to the Secretary-Treasurer for his trouble, care, and responsibility, and the said Secretary-Treasurer, before entering upon his office, shall give two good and sufficient sureties, who shall be jointly and severally (solidairement) responsible, for the due and faithful performance: of his duties, which, sureties shall be accepted by the President in the name of the Society, for such a sum as shall be fixed by the Society, and in case of malversation on the part of the said Secretary-Treasurer, the President shall institute against him and his sureties the necessary prosecution for the sum which he shall have waisted, or in which he shall be indebted to the said Society.

VII. And be it further Ordained and Enacted by the authority aforesaid, that the said Fire Society shall, from time to time divide the City into as many wards as it shall judge necessary, and shall assign to each ward, where there shall be fire engines, a number of volunteers, not exceeding fifty for each engine, who shall be called Engine-men, and be under the immediate orders of a Captain, to be chosen and assigned by the said Society, and their duty shall be to exercise the engines, bring them to work at, and convey them from the fires; they shall also be subject to all other Bye-Laws, Rules and Regulations to be made by the Fire Society, with respect to them, according to the intention of this Ordinance; and from the day whereon they shall have inscribed their names on the list of volunteer Engine-men,

their services may be required during one year, and in all cases of neglect of duty, they shall incur a fine of not less than five shillings, nor more than ten shillings currency for each offence, and in case of death, absence or incapacity, they shall be replaced by the said Society; and each Captain, and the men under his command, shall be exempt from serving as Jurors, Constables or Peace Officers, and in the Militia, except in case of invasion, and from performing and paying for statute labour, and it shall be the duty of the said Secretary-Treasurer to furnish to the Sheriff a list of the names of all the persons appointed by the Society as Engine-men, or otherwise, whom by the disposition of this Ordinance are exempted from serving as Jurors.

VIII. And be it further Ordained and Enacted by the authority aforesaid, that the said Society shall also form a company of sixty volunteers, to be commanded by a Captain and two Lieutenants, to be appointed by the said Society, who shall be present and assist at every fire, and whose duty shall be specified in the Bye Laws, Rules and Regulations which shall be made by the Society, and who shall have no salary or recompence, but shall be exempt from statute labour, and from serving as Jurors and in the Militia, except in case of invasion; and from and after the day when any individual shall have consented to have his name inscribed on the list of such volunteers, he shall be liable to a fine of not less than five shillings, nor more than ten shillings currency, for each refusal or neglect of duty, and shall serve in the said Company during one year from the day of his appointment, and in case of death, absence or inability, he shall be replaced by the said Society.

IX. And be it further Ordained and Enacted by the authority aforesaid, that in all meetings of the said Society, a majority of the members present shall decide, the subjects proposed, to the best of their judgment, according to the intention of this Ordinance: Provided always, that nothing shall be submitted to any such meeting, unless there be present at least five members, which number shall, in all cases, form a quorum; and that the President shall in no instance vote, except on a division, when the number of votes on either side shall be equal, when he shall be entitled to, and may have and give a casting vote.

X. And be it further Ordained and Enacted by the authority aforesaid, that the said Fire Society shall in all cases, have the power of assisting from and out of its funds any person in its employ, who shall have received any wound or contracted any disease at any fire, and in the case where any person in its employ shall perish at any such fire, to appropriate towards the maintenance of his family such sum or annual sum from and out of the funds as shall appear just and reasonable, as well as to bestow such rewards in money, medals or otherwise, as it shall judge proper and suitable, upon each and every individual who at any fire shall have performed any meritorious actions.

XI. And be it further Ordained and Enacted by the authority aforesaid, that in all cases of fire, the Members of the Society alone, or officers by them specially appointed, shall superintend and command the persons in its employ.

XII. And be it further Ordained and Enacted by the authority aforesaid, that in all cases of fire, any three Members of the Society, with the concurrence of, at least, one Justice of the Peace, shall have the power of causing to be demolished, or taken down, all buildings and fences which they shall deem necessary to be demolished, for arresting the progress of any fire, and that they shall not, in consequence thereof, be molested nor liable to any damages.

XIII. And be it further Ordained and Enacted by the authority aforesaid, that the said Society shall also have the power of making such Bye-Laws, Rules, and Regulations as it shall consider most proper for preventing the thefts and deprivations generally committed at fires, subject nevertheless to the examination of the said Court, or Judges thereof, in vacation, as aforesaid; and the same shall, and may be enforced and carried into execution, after approval and publication, as directed by this Ordinance; and it shall have the power of appointing and employing Special Peace Officers, to put such regulations into execution, and each and every person present at any fire, who shall cause disorder, or refuse to lend assistance when required, or who shall not retire when ordered, or who shall abuse, maltreat, or offer violence to any Member of the Society, or to any person in their employ, shall be liable to imprisonment during a space of time not exceeding twenty-four hours, upon an order to that effect by any two Members of the Society, (of whom one shall have been witness of the offence,) or to pay a fine of five shillings currency, which shall be sued for by the Secretary-Treasurer, in the name of the Society, before any two Justices of the Peace, of the said City, who shall hear and determine the complaint in a summary manner in their Weekly Sessions; and the persons so convicted shall pay the said fine without delay, or in default of payment thereof, and of the costs, which shall not exceed seven shillings and six-pence currency, shall be confined in the Common Gaol, for a time not exceeding three days.

XIV. And be it further Ordained and Enacted by the authority aforesaid, in order to prevent more effectually accidents by fire in the said City, that the said Fire Society, as soon as it shall have been regularly organized and constituted, under and by virtue of this Ordinance, shall have the power to make, and shall make such Rules and Regulations as it shall judge necessary, and to which all occupants of houses and proprietors of lots of ground, in the said City shall be subject, which Regulations shall extend, as well to the interior as to the exterior of the houses and other buildings so occupied, and to the whole of the lots of ground on which such buildings shall stand: Provided always, that such Regulations shall not be contrary to existing laws, nor be in force until they shall have been passed, examined and published, as already directed by this Ordinance; Provided also, that the fines, to be imposed by any such Rule or Regulation, shall not, in any case, exceed five pounds currency, for each offence.

XV. And be it further Ordained and Enacted by the authority aforesaid, that it shall be the duty of each Member of the Fire Society, to ensure the execution of the Rules and Regulations made by the Society, in the Ward assigned him, and every three months, (or oftener if he thinks proper) to visit each house or other building, in his Ward, and to cause to be prosecuted all persons whom he shall find infringing the said Rules and Regulations, and

every occupant who shall refuse admittance into his house or other building erected on the lot of ground he occupies, to any such Member of the said Society and to the witness whom he shall take, with him, shall incur a fine of ten shillings currency, for each offence, and such visits may be made at any hour of the day, between eight o'clock in the morning and six o'clock in the evening.

XVI. And be it further Ordained and Enacted by the authority aforesaid, that the Secretary-Treasurer of the said Society shall be exonerated from all Militia duty (except in case of invasion,) and from serving as a Juror and Peace Officer.

XVII. And whereas it is necessary to establish a Fund, from which the said Fire Society may defray its annual expenses: Be it, therefore, further Ordained and Enacted by the authority aforesaid, that all the money arising from the Sweeping of Chimnies, in the said City, and all fees, emoluments and monies, to which, under the provisions of the said Ordinances of the seventeenth and thirtieth years of the Reign of George the Third, respectively, the said Overseer to prevent accidents by Fire, was in any way entitled to demand, have, have and receive, shall form part of the Fund aforesaid, and shall be delivered and paid over to the Secretary-Treasurer of the said Fire Society, who is hereby authorised and required to collect and receive the same, and the same when collected and received, shall be employed as directed by this Ordinance; Provided always, that the said Society shall during the continuance of this Ordinance, pay to the present Overseer for preventing accidents by Fire, for the said City, the sum of two hundred pounds currency, yearly, out of the said monies; and such allowance shall be paid him by quarterly payments, and in preference to all other expenses of the said Society; but such payment shall cease, if the said Overseer shall be appointed to any other place of profit under the Government, exceeding in annual value the sum hereby allowed him.

XVIII. And be it further Ordained and Enacted by the authority aforesaid, that to collect the said monies, the said Fire Society may also employ one or more person or persons to whom a reasonable allowance shall be made, which Collector or Collectors shall render a faithful account of the monies by him or them received, to the Secretary-Treasurer of the said Society; and the said Collector or Collectors, before entering on his or their duty, shall respectively furnish two sufficient securities to the satisfaction of the President, in the amount which he shall consider reasonable as a security for the payment of the monies, which he or they shall receive, and for his or their good conduct.

XIX. And be it further Ordained and Enacted by the authority aforesaid, that the monies arising from the sweeping of the chimnies shall be regularly collected, each and every month.

XX. And be it further Ordained and Enacted by the authority aforesaid, that the accounts of the Society shall be made up and rendered quarterly, and be settled at a meeting convened by the President for that purpose, which settlement shall be signed by the President and countersigned by the Secretary-Treasurer, and shall be published in the English and French

languages in at least two of the newspapers of the said City, one of which shall be the Montreal Gazette, specifying the receipts and disbursements at the end of every year.

XXI. And be it further Ordained and Enacted by the authority aforesaid, that the said Fire Society shall cause to be swept and scraped, as effectually as possible, once every month, all chimnies actually used in the said City, by capable and experienced sweepers; and every proprietor and occupier of a house or part of a house, who shall oppose the sweeping of any chimney actually in use, shall incur for each refusal a fine of five shillings currency, and if such chimney or chimnies after such refusal shall take fire, he or she shall thereby incur a further fine of forty shillings, currency.

XXII. And be it further Ordained and Enacted by the authority aforesaid, that all prosecutions for the recovery of monies arising and due from the sweeping of chimnies, as well as all other prosecutions pursuant to this Ordinance, shall be instituted by the Secretary-Treasurer, in the name of the said Society, before the Justices of the Peace in their Weekly Session, and which Secretary-Treasurer may also appear in and defend all actions against the said Society, process in that behalf having been duly served on him as such Secretary-Treasurer, and the said Justices shall hear and determine such suits in a summary manner on the oath of one credible witness other than the Plaintiff, and the fine shall be levied by warrants of distress, seizure and sale of the moveables of the Defendant; Provided always that, such seizure shall not be made until three days after the day on which the judgment shall have been rendered, and that the sale of the moveables seized shall not take place sooner than the second Monday after the Sunday, when public notice of the time of sale shall have been given at the door of the Parish Church, immediately after Divine Service in the forenoon.

XXIII. And be it further Ordained and Enacted by the authority aforesaid, that all the penalties and fines imposed by this Ordinance, shall go to and form part of the funds of the said Society, and shall be paid by the Clerk of the Peace to the Treasurer of the said Society, within eight days from the receipt thereof.

XXIV. And be it further Ordained and Enacted by the authority aforesaid, that the said Fire Society shall not exact any allowance nor remuneration whatsoever, for causing to be swept the chimnies of any pauper, occupying any house or part of a house in the said City, and the said Society shall cause to be swept gratis the chimney or chimnies of each any every pauper once a month, as directed with respect to those who shall be able to pay the allowance mentioned in the said Ordinance: Provided always, that each and every pauper, who shall claim the benefit of this Ordinance, shall not be exempt from paying the said allowance, until he or she shall have presented to the Secretary Treasurer of the said Society, a certificate of his or her poverty, signed by a Priest, or Minister, or Justice of the Peace residing in the said City; and every Collector who, after such certificate shall have been recognized and approved by the Society, shall exact and receive the said allowance or any part thereof, shall incur a penalty of five shillings currency for each offence.

XXV. And be it further Ordained and Enacted by the authority aforesaid, that all actions to be instituted by reason of offences against this Act, shall be brought within three months next after the commission of the offence, and not afterwards.

XXVI. And be it further Ordained and Enacted by the authority aforesaid, that the duty assigned to the said Overseer or Inspector of Chimnies, by the fourth section of a Statute passed in the fifty-ninth year of the Reign of His late Majesty George the Third, chapter eight, intituled, "An Act to repeal in part an Ordinance passed in the seventeenth year of the Reign of His Majesty, intituled, 'An Ordinance for preventing accidents by Fire, and for other purposes therein mentioned,'" shall, after the passing of this Ordinance, be vested in, and be performed by the several Members of the said Fire Society, and each Member of the Society (or the Public Inspector or Superintendent or Officer, if any be appointed,) shall in the ward which shall be assigned to him, at a meeting of the said Society, perform the duties imposed on the Overseer or Inspector of Chimnies, by the said section of the aforesaid Act, and in case of negligence, they shall severally be liable to the like penalties as are in and by the said section provided and imposed; Provided always, that in every case where it may be necessary to prosecute for contravention to the said Act, the action shall, by the said Secretary-Treasurer, be brought in the name of the said Fire Society.

XXVII. And be it further Ordained and Enacted by the authority aforesaid, that this Ordinance shall be deemed a public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace and other persons whatsoever, without being specially pleaded.

XXVIII. And be it further Ordained and Enacted by the authority aforesaid, that the due application and employment of all monies to be levied by virtue of this Ordinance, 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.

XXIX. And be it further Ordained and Enacted by the authority aforesaid, that this Ordinance shall be, and remain in force, until the first day of November, one thousand eight hundred and forty-two, and no longer.

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 Second day of March, in the second 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, and in the year of Our Lord, one thousand eight hundred and thirty-nine.

By His Excellency's Command,
W. B. LINDSAY,

Clerk Special Council.