

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday the Eleventh day of February, 1819, in the Fifty-Ninth year of the Reign of our Sovereign Lord George the Third, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith &c. &c. being the First Session of the Eleventh General Assembly, convened in the said Province.

59 George III – Chapter 9

An Act for the appointment of Commissioners to issue Treasury Notes; and to establish Loan Offices in the Counties of Annapolis and King's County.

Be it enacted by the Lieutenant-Governor, Council and Assembly, that it shall and may be lawful for the Lieutenant-Governor, or Commander in Chief, for the time being, to appoint three fit and proper persons, as commissioners, to issue treasury notes, to any amount not exceeding ten thousand pounds: the said notes so to be issued, shall be five pound notes, two pound notes, and one pound notes, and shall bear date the first day of May, one thousand eight hundred and nineteen, and shall be of the same form, signed and countersigned, and shall be received in payment in like manner, and again re-issued, under the rules, regulations and provisions, as are mentioned, expressed and contained, in the act, passed in the fifty-third year of His Majesty's reign, entitled, "An Act to authorise the Treasurer of the Province to call in and pay the Treasury Notes heretofore issued, and to empower the Lieutenant-Governor or Commander in Chief, for the time being, to appoint Commissioners to issue other Treasury Notes."

II. And be it further enacted, that the said commissioners, so to be appointed as aforesaid, before they enter upon the duties imposed by this act, shall respectively take and subscribe, before any one of His Majesty's justices of the peace, the following oath:

I, A. B. do swear, that I will well and faithfully do, and perform, what I am directed and empowered to do as a commissioner to issue treasury notes, under an act, entitled, "An Act to autorise the Lieutenant-Governor or Commander in Chief, for the time being, to appoint Commissioners to issue Treasury Notes, and to establish Loan Offices in the said Counties of Annapolis and King's County," and that I will not knowingly sign any more, or greater amount of treasury notes, than I am authorised to do under the said act. So help me God; which affidavit shall be filed in the office of the secretary of the province.

III. And be it further enacted, that it shall and may be lawful for the Lieutenant-Governor, or Commander in Chief for the time being, by and with the advice of His Majesty's council, to appoint two fit and proper persons in each of the counties of Annapolis and King's county, and also two other fit and proper persons resident in the town of Halifax, as loan officers for the same; and the persons so appointed, before entering upon the duties of the said office, shall respectively give bond to His Majesty, his heirs and successors, in the sum of three thousand pounds, which such sufficient sureties as shall be approved of by His Majesty's attorney general and solicitor general for the said province, conditioned for the true and

faithful performance of the duty imposed by this act, without fear, favour or partiality; and shall also take and subscribe, before any of His Majesty's justices of the peace, the following oath:—

I, A. B. do swear, that I will, to the best of my skill and knowledge, faithfully, impartially and truly, demean myself in discharge of the trust committed to me as one of the loan officers, for _____ according to the true intent and meaning of the act to authorise the Lieutenant-Governor or Commander in Chief for the time being, to appoint commissioners to issue treasury notes, and to establish loan offices in the counties of Annapolis and King's county. So help me God. Which bond and affidavit so made and subscribed, shall be delivered to the secretary of the province, to be by him recorded, and afterwards delivered to the treasurer of the province.

IV. And be it further enacted, that the said loan officers, when appointed as aforesaid, shall, by advertisements set up in the most public places in the said counties, respectively give sixty days notice of their appointment, and that applications, on a day to be therein named, will be received by such of them resident within each county, for borrowing the said notes, to be lent under this act; and the said loan officers are hereby directed to lend the same, to such persons as apply to borrow, and can give security to the said loan officers, by mortgage on real estate, situate in the county where the application is made, as is required by this act; and every person so applying shall receive notes according to priority, if no reasonable objections be made against the title to the real estate offered in security, and the application is in other respects conformable to this act, and satisfactory to the loan officers. Provided always, that if, upon the first day, so many borrowers do offer as to demand a larger sum than the said loan officers are authorised to lend, then, and in such case, every such applicant shall be abated in proportion to the sum required by him. And provided always, that no one person shall, at any time, receive from the said loan officers, any greater or larger sum than two hundred pounds, nor less than twenty-five pounds.

V. And be it further enacted, that the said loan officers, resident in the said counties respectively, shall transmit the said applications for borrowing the said notes, with their observations thereon, to the loan officers resident in Halifax aforesaid; and as soon as the applications are agreed upon by all the loan officers for each of the said counties, and the same are certified to His Excellency the Lieutenant-Governor, it shall and may be lawful for His Excellency, by warrant under his hand and seal, to order and direct the said commissioner and treasurer to deliver the amount of the notes, so agreed to be lent as aforesaid, to the loan officers for each county, resident therein. Provided always, that the amount of notes, so to be delivered to the loan officers for each county, shall not exceed five thousand pounds.

VI. And be it further enacted, that the said loan officers for the said counties respectively, shall, and they are hereby directed, before they deliver any of the said notes, and before they receive security on any real estate, to enquire into the title thereof, and ascertain that the same is good and sufficient, and that there are no incumbrances thereon, and shall

enquire into, and ascertain by appraisement under oath, the value of the soil, and improvements thereof, as the same description of real estate has been sold for within six months prior to the said appraisement, or according to its real and intrinsic worth. Provided always, that no buildings or fences of any description shall be valued or considered in making the said appraisement.

VII. And be it further enacted, that the persons applying to borrow any of the said treasury notes, shall take and subscribe the following oath, or affirmation if a Quaker, which the said loan officers are authorised and directed to administer, to wit:—I, A. B. do swear, that I am, bona fide, seized in fee simple of the real estate by me now offered to be mortgaged for securing the payment of the sum of _____ pounds and interest to be received from the loan officers for the county of _____, in my own right, and to my own use, and the same was not conveyed to me in trust for the use of any person or persons whatsoever; and that the premises are free and clear from any other or former gift, grant, sale, mortgage, judgment, or other incumbrance whatsoever, to my knowledge or belief, except the conditions of the original grant. So help me God.

VIII. And be it further enacted, that the said loan officers for the said counties respectively, shall let or lend the said treasury notes received by them as aforesaid, to the persons making application for the same, and complying with the directions and provisions of this act, at the interest of six per cent. per annum; to be paid and payable on the thirty-first day of December in each year; one third of the principal in three years from the thirty-first day of December next ensuing, another third thereof in six years, and the remainder in nine years after that period, and not otherwise.

IX. And be it further enacted, that the real estate so to be mortgaged to secure the payment of the principal lent, and the interest thereof, shall be at least treble the value of the sum secured, the value thereof to be fixed and ascertained in manner as aforesaid, and that the mortgage to be taken and received by the said loan officers, for securing the payment of the principal and interest, as aforesaid, shall be in the form following:

This indenture, made the _____ day of _____ in the year of Our Lord _____ between _____ of _____ in the county of _____ and _____ his wife, of the one part _____ loan officers for the county of _____ of the other part, witnesseth, that the said _____ and his wife, for and in consideration of the sum of _____ to them in hand paid by the said _____ loan officers, as aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, released and confirmed, and by these presents to grant, bargain, sell, alien, release and confirm, to the said _____ loan officers, as aforesaid, their succession, or assigns for ever, all that _____ together with all and singular the hereditaments and appurtenances to the same belonging, or in any wise appertaining, and also all the estate, right, title, interest, possession, claim, property and demand, of them the _____ in right of dower, or otherwise, of, in, and to the premises aforesaid, and every part thereof; to have and to hold, the said land and premises above-mentioned, and every part thereof, to the said _____ as loan officers as aforesaid, and to their successors and assigns

for ever, to, and for, the uses and purposes mentioned in the act of the general assembly, passed in the fifty-ninth year of His present Majesty's reign, entitled, "An Act for the appointment of Commissioners to issue Treasury Notes, and to establish Loan Offices in the respective Counties and Districts in this Province." Provided always, nevertheless, and these presents are upon this express condition, that if the said _____ his heirs, executors, administrators or assigns, do pay, or cause to be paid, to the said _____ loan officers as aforesaid, or their successors, the interest at the rate of six per cent. on the said principal sum of _____ on the thirty-first day of December next, and yearly on that day, until the thirty-first day of December in the year one thousand eight hundred and twenty-two, and if upon that day shall pay to the said _____ and their successors as aforesaid, one-third of the said principal sum, and the interest on the remaining two thirds thereof yearly, on the thirty-first day of December, until the thirty-first day of December, in the year one thousand eight hundred and twenty-five, and if upon that day shall pay to the said _____ and their successors as aforesaid, another third of the said principal sum, and the interest due on the remaining one third thereof yearly, on the thirty-first day of December, until the thirty-first day of December, in the year one thousand eight hundred and twenty-eight, and if upon that day shall pay to the said _____ or their successors, aforesaid, the remaining third part of the said principal sum, according to the true intent and meaning of the said herein before-mentioned act of the general assembly, then these presents, and every matter and thing contained therein, shall be null and void; but if default be made in any of the payments aforesaid, then to be, and remain in full force and virtue. And the said _____ for himself, his heirs and assigns, doth agree to be absolutely barred of all equity of redemption of the said premises, within sixty days after such failure in payment as aforesaid. And the said _____ for himself, his heirs, executors and administrators, doth covenant, promise and agree, to and with the said _____ as loan officers as aforesaid, and their successors in office, that the said _____ his executors, or administrators, shall and will, well and truly pay, or cause to be paid, to the said loan officers, as aforesaid, or their successors in office, all and every of the sums of money above mentioned, and at the times on which the same ought to be paid, as aforesaid. In witness, &c.

Form of acknowledgment of Dower.

On the _____ day of _____ in the year _____ before me, one of His Majesty's justices of the peace for the county of _____ personally appeared _____ the wife of the within named _____ who being by me examined separate and apart from her said husband, did acknowledge that she signed, sealed and delivered, the within indenture, freely, and without compulsion from her said husband.—Which mortgage shall be registered according to law, at the cost and charges of the mortgagor.

X. And be it further enacted, that it shall not be lawful for the said loan officers for the said counties respectively, to receive from the borrower any payment in part of the notes lent under this act, or the interest thereof, except on the days and times limited and appointed for the payment of the interest and principal, unless the person or persons borrowing the same shall tender and offer the whole sum borrowed, with the interest due and arising

thereon; and upon payment of the interest and principal as the same becomes due, the said loan officers shall give the borrower a receipt for the same, and shall enter such payment upon the said mortgage, and when the full payment of the principal and interest shall be made, the said loan officers shall execute and deliver to the mortgagor a release and discharge, in due form of law, to release and discharge the said real estate of, and from, the said mortgage.

XI. And be it further enacted, that in case the interest or principal, due and payable upon any mortgage taken under this act, shall be unpaid for the space of fifteen days after the same shall become due, the said loan officers, for the said counties respectively, are hereby directed and required to cause a notice to be inserted in the Royal Gazette, and a copy thereof to be served on the mortgagor, or, if absent, to be left at his last place of abode, within the county, that the interest or principal (as the case may be) is due and unpaid upon the said mortgage, and unless the same is paid within forty-five days thereafter, his equity of redemption in the premises mortgaged, becomes foreclosed, and the same will be afterwards sold pursuant to the directions and provisions of this act.

XII. And be it further enacted, that the notes issued under this act, and gold and silver coin, current in the province, shall be received by the said loan officers, for the said counties respectively, in payment of the principal borrowed, and the interest thereof, and upon all sales of real estate made under this act, and the said loan officers shall upon the receipt thereof, without delay, transmit the same to the treasurer of the province, and shall be placed by him to the credit of the province.

XIII. And be it further enacted, that if the notes so liable to be re-issued, shall be defaced or otherwise injured, it shall and may be lawful for the Lieutenant-Governor, or Commander in Chief, by warrant or warrants, to require the commissioners to issue other notes agreeably to the said warrants, in lieu of those so defaced and injured, which said defaced notes shall be, by the said commissioners, in the presence of the treasurer, cancelled, by cutting off the name of the treasurer and the year in which the same were issued, and delivered to the secretary of the province, to be examined and destroyed by the joint committee of His Majesty's council and the house of assembly, appointed to examine the public accounts. Provided always, that the new notes so to be issued, shall not exceed the amount of the defaced and injured notes, so, from time to time, in manner as aforesaid, received at the treasury.

XIV. And be it further enacted, that if any person or persons whatsoever, shall counterfeit any of the notes aforesaid, issued by virtue of this act, or alter any of the same, so that they shall appear to be of greater value than when originally issued, or shall knowingly pass or give in payment, any of the notes aforesaid, so counterfeited or altered, every person convicted thereof, shall be set in the pillory for the space of one whole hour, and one of the ears of such offender shall be nailed thereto, and such offender shall be publicly whipped through the streets of the town or place where such offence shall have been committed, and shall pay all charges of the prosecution.

XV. And be it further enacted, that if the said loan officers for the said counties respectively shall, after receiving any mortgage by way of security for notes lent under this act, discover that the mortgagor has no good title to the premises contained in the said mortgage, or that the same is defective, it shall and may be lawful for the said loan officers or their successors in office, and they are hereby required, to commence an action or actions of debt or covenant upon the said mortgage, against the said mortgagor, his or her heirs, executors, and administrators, and the same to prosecute to judgment in any court of record, for the recovery of the money lent and unpaid upon the mortgage, and the interest thereof, whether the same has become due or not; and the said court are hereby authorised and empowered to award judgment against the mortgagor for the said sum, and costs of suit, upon proof of the execution of the said mortgage; and that the mortgagor's title to the premises therein contained, is not good, but defective, and to award execution thereon; any law, usage or custom, to the contrary notwithstanding: in which action or actions, the mortgagor shall be held to special bail, or his goods, chattels or estate, attached. Provided always, that nothing herein contained shall extend, or be construed to extend, to save harmless or indemnify the said loan officers, for any negligence or inattention in their duty, in enquiring into, and ascertaining, the titles to the lands mortgaged to them, as loan officers, as aforesaid.

XVI. And be it further enacted, that if any person or persons, who shall borrow notes under this act, shall neglect to pay, or cause to be paid, every year, on the day limited for the payment thereof, or within sixty days thereafter, the yearly interest due upon his or their mortgage, and also the part of the principal as it becomes due and payable thereon, then, and in this case, the loan officers to whom such mortgage was made, or their successors in office, shall be seized of an absolute indefeasible estate in fee simple, in the real estate in the said mortgage mentioned, and thereby mortgaged to them, their successors and assigns, to the uses and for the purposes in this act mentioned, and the mortgagor or mortgagors, his or their heirs and assigns, shall be utterly precluded and barred of all equity of redemption of the mortgaged premises; any law, usage, custom or practice of courts of equity, to the contrary notwithstanding.

XVII. And be it further enacted, that if any loan officer shall die, remove, misbehave, neglect, or refuse to do and perform, the duties required by this act, it shall and may be lawful for the Lieutenant-Governor, or Commander in Chief, by and with the advice of His Majesty's council, to appoint another person in his stead, who shall, before entering upon the duties of his office, give bond, with sureties, and take and subscribe the oath in manner as aforesaid; and the loan officer, so dying, or going out of office, his executors, or administrators, shall, upon demand, deliver to the other loan officer for the same county or district, all the notes, monies, books and papers, in his custody and possession belonging to the said loan office, upon oath before any justice of the peace; and in case such former loan officer, or his executors or administrators, shall refuse or neglect to make such delivery under oath as aforesaid, the bond of such loan officer shall be forfeited.

XVIII. And be it further enacted, that the loan officers for each county or district shall be, and they are hereby authorised to retain out of the interest received on the notes lent by them under this act, at and after the rate of two pounds ten shillings per cent. on the amount of the interest so received for their services; and also shall, and they are hereby authorised to, demand and receive for their own use, from each person borrowing notes as aforesaid, the following fees, and no other, that is to say:—

For every valuation and appraisalment, seven shillings and six pence.

For every mortgage, five shillings.

For every release and discharge, two shillings and six pence.

For selling real estate, three pence in the pound.

For every deed, five shillings.

And for every deed or re-conveyance, five shillings.

And any loan officer or officers taking or receiving greater or larger fees than are above expressed, he or they shall forfeit and pay, for each offence, the sum of twenty pounds; to be recovered by bill, plaint, or information, in any court of record in this province; one half of our Lord the King, the other half to the person suing for the same.

XIX. And be it further enacted, that when and as soon as the equity of redemption of any mortgaged premises is foreclosed in manner as aforesaid, it shall and may be lawful for the said loan officers, or their successors in office, and they are hereby directed forthwith to advertise the said premises in the most public places within the county or district in which the real estate lies, and in the Royal Gazette, for thirty days, that the same, or such part thereof as they may deem necessary and sufficient to pay and discharge the sum borrowed, with the interest thereof, and the expense thereon; will be sold at public auction, at some convenient place, to be named, to the highest bidder, and at the time and place appointed the said loan officers shall sell the same, or so much thereof as aforesaid, to the highest bidder; and, upon payment of the consideration money, the said loan officers or their successors, shall execute and deliver to the purchaser or purchasers, a deed or conveyance, in the form following:—This indenture made the ____ day of _____ in the year of our Lord _____ between _____ of _____ loan officers for the county of _____ of the one part, and _____ of _____ of the other part. Witnesseth, that the said _____ as loan officers, as aforesaid, for, and in consideration of the sum of _____ to them in hand paid by the said _____ the receipt whereof is hereby acknowledged: have granted, bargained, sold, aliened, released and confirmed, and by these presents do grant, bargain, sell, alien, release and confirm, unto the said _____ his heirs, and assigns, in pursuance of an act of the general assembly, passed in the fifty-ninth year of His Majesty's reign, entitled, "An Act for the appointment of Commissioners to issue Treasury Notes, and to establish Loan Offices in the Counties of Annapolis and King's County." All _____ together with all and singular the hereditaments and appurtenances to the same belonging, or in any wise appertaining, and also, all the estate, right, title, interest, property, claim, demand, and possession whatsoever, of the said _____ as loan officers, as aforesaid, or their successors, of, in, and to the said premises, and every part thereof, to have, and to hold the said land and premises

hereby released and confirmed, and every part thereof, and all the appurtenances to the said _____ his heirs and assigns, to the sole and proper use and behoof of the said _____ his heirs, and assigns, for ever.—In witness _____.

Which deed or conveyance when executed and delivered, shall convey to the purchaser or purchasers, his, or their heirs and assigns, a good estate in fee simple, free and discharged from all equity of redemption, and all other incumbrances made and suffered by the mortgagor or mortgagors, his, or their heirs and assigns, since the said mortgage, and such deed and conveyance shall be held good in law and equity.

XX. And be it further enacted, that, if the said loan officers, or either of them, or their successors, or either of them, shall neglect and refuse to advertise, sell and convey, the mortgaged premises, or such part thereof as aforesaid, when and as the equity of redemption is foreclosed, in manner as aforesaid, they, or either of them, so neglecting or refusing, shall forfeit and pay the sum of two hundred pounds; to be recovered by bill, plaint or information, in any court of record in this province; one half thereof to the use of Our Lord the King, the other half to the use of the person suing for the same.

XXI. And be it further enacted, that of the money received by the loan officers, on the sale of real estate as aforesaid, they shall retain in their hands the principal and interest due and unpaid, and secured to be paid by the mortgage upon the same, together with the costs and charges of the sale thereof, and the overplus, if any, they shall pay to the mortgager, his executors, administrators or assigns.

XXII. And be it further enacted, that, whenever upon such sale as aforesaid, any part or parcel of the said estate so mortgaged shall be sufficient to pay and discharge the principal and interest so due upon such mortgage, it shall and may be lawful for the loan officers aforesaid, and they are hereby required, to re-convey, by deed of bargain and sale, to the said mortgagor, his heirs and assigns, the residue of such part of the said real estate as remains upon such sale over and above the satisfying of principal, interest and expenses, as aforesaid.

XXIII. And be it further enacted, that the loan officers for each county aforesaid, appointed under this act, shall keep a journal of their proceedings, correctly stating every act and thing done by them under their appointment; and shall yearly, prior to the thirty-first of December in each year, render an account to the auditor of accounts of all notes and monies received, lent and transmitted, to the treasurer, agreeably to such form of account as may be furnished him by the said treasurer; and also, at the same time, transmit a copy of their journal up to the close of each year; which accounts and journal shall be, by the said loan officers, verified under oath.

XXIV. And be it further enacted, that if any person, at any quarterly periods after the thirty-first of December, in the year one thousand eight hundred and twenty-two, that is to say, at the thirty-first of March, thirtieth of June, thirtieth of September, and thirty-first of

December, in any succeeding year, shall tender for payment at the treasury, any of the notes issued or re-issued under this act, to the amount of one hundred pounds and upwards, and the treasurer shall not be able to pay the same in gold or silver, it shall and may be lawful for the Lieutenant-Governor, or Commander in Chief for the time being, by and with the advice of His Majesty's council, by warrant under the hand and seal, to direct the commissioners aforesaid, or to appoint other commissioners in their stead, and to direct them to fund such sum and sums in the said notes as shall be so tendered for payment from time to time as aforesaid, and to grant certificates to the amount thereof, on interest, and the said commissioners, in the presence of the treasurer, shall cancel the notes so funded, by cutting therefrom the name of the treasurer, and the year in which they were issued, and shall deliver the same to the secretary of the province to be examined and destroyed, as, by the twelfth section of this act, is directed.

XXV. And be it further enacted, that it shall and may be lawful for the treasurer, and he is hereby directed, when and as soon as he shall receive a sum of money in gold and silver sufficient to pay and discharge the amount, principal and interest, due upon any certificate granted under this act, he shall give sixty days notice of his intention to pay such certificate, and six a day for the payment thereof; and as gold and silver shall be received into the treasury, sufficient to pay the principal and interest due upon any other certificate or certificates granted as aforesaid, he shall give the same notice, and shall continue to do so, paying and discharging the smaller certificates before the larger ones, until the whole of the principal and interest due upon the certificates granted as aforesaid, shall be fully paid and satisfied; and the person or persons, holding such certificate or certificates so called in, than was due and payable at the time the same were required to be presented to the treasury as aforesaid.

XXVI. And be it further enacted, that it shall and may be lawful for the said treasurer, and he is hereby directed. To pay to the person or persons duly authorised to receive the same, yearly and every year, the interest as the same may become due upon any certificate or certificates granted under this act, until the principal thereof shall be fully paid and discharged.

XXVII. And be it further enacted, that if, on the thirty-first of December, in the year one thousand eight hundred and twenty-eight, all the notes which shall be issued and re-issued under and by virtue of this act, shall not have been received in payment of duties by the collectors of impost and excise and paid into the treasury or funded as aforesaid, it shall and may be lawful for the holders of any such notes, to present the same for payment at the office of the treasurer, and he is hereby directed and required to pay all such notes on demand in gold or silver, out of any monies then in the treasury not otherwise specially appropriated; and the said notes so received and paid at and after the said thirty-first of December in the year last aforesaid, shall be by the treasurer immediately cancelled, and delivered to the secretary of the province, to be examined and destroyed in manner as is directed by the twelfth section of this act.