

The Provincial Statutes of Lower-Canada, Being the first session of the Third Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1801.

41 George III – Chapter 16

An Act for removing the old Walls and Fortifications that surround the City of Montreal, and otherwise to provide for the Salubrity, Convenience and Embellishment of the said City.

8th. April 1801, Presented for His Majesty's Assent and Reserved "for the signification of His Majesty's Pleasure thereon."

7th April 1802, Assented to by His Majesty in His Privy Council.

22th August 1802, The Royal Assent signified by Proclamation of His Excellency, the Lieutenant Governor

Whereas in pursuance of an Arret of His Most Christian Majesty, bearing date at Versailles, the thirteenth Day of May, in the Year of Our Lord One thousand seven hundred and twenty four, for the better defence of the City of Montreal in this Province, a Stone Wall and other Fortifications of Stone were heretofore built and created, around the said City, partly on Land ceded to His Most Christian Majesty by the Ancient Company of New France, and partly on Land the property of divers Individuals. And whereas Your Majesty, by Message, through your Lieutenant Governor, was on the twenty first of March, One thousand seven hundred and ninety seven, graciously pleased to express your Royal Will and Pleasure, that the Legislature should deliberate on the most expedient measures to be adopted for the improvement, and embellishment of the City of Montreal, and for the more expeditions and effectual method of deciding all questions, that may arise on the subject of the re-possession of the Ground now occupied by the Old Fortifications thereof, And whereas it is expedient to take down and remove the said Wall and Fortifications yet standing, but in a ruinous condition, and otherwise to provide for the improvement of the said City of Montreal, by new Squares and Streets to be laid out, opened and made upon the site of the said Wall and Fortifications or Lands adjacent. And whereas it is just and reasonable, that the Land, which the said Wall and Fortifications now occupy, and which does not belong to His Majesty, should be delivered up to the lawful Proprietors thereof, their Heirs or Assigns; And whereas also, the objects herein before recited, require the Aid and Authority of the Provincial Parliament. May it therefore please Your Most Excellent Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the Advice and Consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the Authority of An Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth Year of His Majesty's Reign intituled, 'An Act for making more effectual Provision for the Government of the Province of Quebec, in North America,' and to make further

Provision for the Government of the said Province.” And it is hereby enacted by Authority aforesaid, that it shall and may be lawful to and for the Governor, Lieutenant Governor or Person administering the Government of this Province, with the advice of His Majesty’s Executive Council, by one or more Commission or Commissions, by Letters Patent, under the Great Seal of this Province, to name and appoint three Persons, two of whom shall form a Quorum, to be Commissioners for carrying into execution the present Act: As also to replace and supply every vacancy as need may be from time to time during the space of three Years, to be computed from the day of the date of the said Commission, during which time the powers thereby veiled in the said Commissioners shall continue and no longer. Which said Commissioners and other Persons to be appointed for carrying into effect the present Act, shall, before entering upon their several trusts take an Oath well and truly to perform the duties of their respective Offices.

II. And be further enacted by the Authority aforesaid, that it shall and may be lawful, to and for the Governor, Lieutenant Governor or Person Administering His Majesty’s Government, by an Instrument under his Hand and Seal at Arms, to nominate and appoint with such salary as he shall deem reasonable, a fit and proper Person to be Secretary and Treasurer to the said Commission, who shall perform all the duties incident to such Commissioners and shall receive and account for, in manner herein after mentioned, all monies accruing under and by virtue of this Act on the said Commission, and shall give such security for the faithful discharge of his Duty in such behalf, as the Governor, Lieutenant Governor or Person Administering His Majesty’s Government of this Province, shall require, and that it shall and may be lawful for the said Commissioners to engage and employ all such Persons as may be requisite for the due execution of the said Trust, and to allow them such compensation for their services, as to the said Commissioners shall appear just and reasonable.

III. And be it further enacted by the Authority aforesaid, that the said Commissioners shall cause to be surveyed, laid out and projected such Streets, Squares, Lots or Parcels of Land, and convenient spaces for erecting thereon Public and other Buildings, as in their Judgment may be most conducive, to the improvement, embellishment, convenience and benefit of the said City, reserving nevertheless, such Lots or Tracts of Land as may be necessary for Military purposes, pursuant to such information as they may obtain from His Excellency the Governor, Lieutenant Governor or Person administering the Government of this Province, relative to the same.

IV. And whereas certain Persons, may claim a right to certain Lots whereon the Walls and Fortifications at present stand; in order therefore to ascertain their right thereto. It is further enacted, that the said Commissioners, shall as soon as possible after taking possession of the said Lands, under the survey aforesaid, give Public Notice three several times in the Quebec and Montreal Gazettes, for all Persons to appear in His Majesty’s Court of King’s Bench for the District of Montreal, in the superior Terms thereof, within four Months from the date of such Advertisement, to file their Claims to any part or parts of the said Lands with all their Titles in support thereof, which Titles shall be taken in communication by the Attorney

General, the Solicitor General or other Person appointed by the Governor, Lieutenant Governor or Person administering the Government of this Province, who may appear to and oppose the same. Provided always, that all and every Person or Persons interested therein, may intervene thereupon and become a party thereto; And the said Court of King's Bench is hereby authorised to decide upon such Claims, Pretention or Intervention conformably to the Laws, Customs and Usages of this Province, and to order the Restoration of such Lots as Shall be ascertained to be the property of such Claimant or Claimants, subject nevertheless, to an appeal to the Provincial Court of Appeals of this Province, by either Party, in the same manner and on the same conditions prescribed in other Civil Suits, which Judgment in Appeal however, shall be final and conclusive, any Law, Usage or Custom, to the contrary notwithstanding.

V. And be it further enacted by the authority aforesaid, that all and every Peron or Persons who may by Judgment of the said Court of King's Bench, obtain the restoration or possession of any part of the said Lots, shall be subject to and suffer on said Lots, all such Roads, Squares or other Public Places as may be judged necessary by the said Commissioners, without any indemnity for or on account of the ground that shall be occupied by the said Streets only. Provided always, that such part or parts of the same as may be considered by the said Commissioners necessary for the improvement, convenience and embellishment of the said City, for such Squares and Public Places, shall be by them taken and applied to the said purposes, on indemnifying the said Proprietors therefor, according to the estimation thereof to be made by the Verdict of a Jury, to be summoned and convened, in the manner hereafter prescribed by the present Act.

VI. And be it also further enacted by the authority aforesaid, that all and every the Lots so to be surveyed and laid out, excepting those reserved for Public uses above mentioned, and such other parts thereof as shall not be claimed, or being claimed, shall not be restored to the claimant as aforesaid, shall be sold at Public Auction the said Commissioners, in such lots or parcels, as may be by the said Commissioners judged most advantageous for the public interest, which said Commissioners are hereby authorised to convey the same to the Purchasers thereof, by good and sufficient Titles. Provided always that no such lot or parcel of ground, shall be sold as aforesaid until six months previous Notice shall have been given, of the time and place of sale, and that such Notice shall have been advertised six times at least in the Quebec Gazette and Montreal Paper, respectively, and that such sale be made upon express condition, that one third of the purchase money to be given for each lot, respectively, be paid, on or before the executing of the Conveyance or Title Deed of such lot, and that good and valid security be given to the satisfaction of the said Commissioners or any two of them, for the due payment of another third part of the said purchase money, within the space of twelve Calendar Months next ensuing the day of the date of such Conveyance, and for the further payment of the remaining third part, within the space of twelve Calendar Months, after making the second payment, and that it shall and may be lawful to and for the said Commissioners to make such additional conditions of sale, as to them shall be deemed expedient.

VII. And whereas divers persons without any authority have entered upon and taken possession of part of the Lands so reserved for the Fortifications as above said. Be it further enacted, that in all such cases, prosecutions shall be instituted by the Attorney or Solicitor General or such other person, as the Governor, Lieutenant Governor or Person administering the Government of this Province shall appoint, in the name of the said Commissioners, for the recovery and possession of the same. And whensoever any Judgment thereon to be made, shall be appealed from, the Judgment of the Court of Appeals shall be final and conclusive, any Law or Custom to the contrary notwithstanding. Provided always, that whenever it shall appear to any two of the Commissioners, acting under and by virtue of the said Commission, that it will not be necessary for the purposes of this Act, to require the abandonment of any of the Lots or Premises, being in the wrongful occupation of any person or persons as aforesaid, it shall and may be lawful for the said Commissioners, to cause a valuation to be made of such Lots or Premises, by the Oath of twelve disinterested House keepers to be for such purpose summoned by the Sheriff, at the request of the said Commissioners, who shall cause to be laid before the said Jurors, an accurate description of the Lots or Premises so to be valued, which Jurors before they proceed to make such Valuation, as aforesaid, shall severally take the following Oath:

"I A B. do solemnly promise and swear, that I will make a just and fair estimate of the value of the Property now referred to me, according to the best of my Judgment."

"So help me God."

which Oath it shall and may be lawful for any one of His Majesty's Justices of the Peace to administer; and the estimate or valuation made and agreed upon by nine of the said Jurors shall be deemed and taken, as the true value of the Premises, and in case no person shall, in the space of one Calendar Month, from the day of such valuation as aforesaid, make an offer in writing to any one or more of the said Commissioners of an advance of one third more than the amount of such valuation, it shall and may be lawful for the said Commissioners to execute a Conveyance or Title Deed of such Lots or Premises, to the party in possession as aforesaid, upon payment of one third part of the valuation as aforesaid, and on receiving good security for the payment of the remaining two third parts, in manner as herein before mentioned. Provided always, that in case of such offer of an advance of one third more than such valuation as aforesaid, it shall be the duty of the said Commissioners to accept the same, and to execute a Conveyance to the party making the same, upon receiving one third of the purchase money and taking security for the remainder in manner herein before mentioned. Provided also that in case the party in possession shall, upon receiving notice of such offer agree to make the like advance that he shall be intitled to the preference.

VIII. And be it further enacted by the authority aforesaid, that the Accounts, Registers, Papers and Proceedings of the Secretary and Treasury or Officer or Officers to be appointed, and all monies to be disbursed, for promoting the salubrity, convenience and embellishment of the said City of Montreal, as directed by this Act, shall be subject to the Controul of the Commissioners to be so appointed in the first instance, during the time of their

appointment, and thereafter to such Controul, as the Governor, Lieutenant Governor or Person administering the Government of this Province, may please to direct.

IX. And be it further enacted by the authority aforesaid, that the said Commissioners, before the time at which their powers under this Act shall cease, shall lay before the Governor, Lieutenant Governor or person administering the Government, a plan of the further improvements which may in their Judgment be expedient and necessary for the salubrity, convenience and embellishment of the said City of Montreal, together with an estimate of the sum to which the said improvements may Amounts which estimate being approved by the Governor, Lieutenant Governor or Person administering the Government, the amount thereof shall remain in the hands of the said Treasurer or Officer appointed as aforesaid, to be applied to the said purposes, under the authority of this Act, under such direction and management, as to the Governor, Lieutenant Governor or Person administering the Government may seem meet.

X. And be it further enacted by the authority aforesaid, that all and every person or persons who may have or pretend to have any right or interest to any such Land or Premisses, and who shall not have filed his claim in the Court of King's Bench for the District of Montreal, as above directed, Shall lose and forfeit such right or interest, which shall be considered as prescribed and abandoned, and shall be disposed of by the said Commissioners, in the manner directed by this Act.

XI. And be it further enacted by the Authority aforesaid, that nothing in this Act shall be construed to extend, to prejudice the rights of any Person or Persons who may pretend a right of Seigneurie directe, in and to any part of the said Lots, whether claimed or not, by any of the ancient Proprietors.

XII. And be it further enacted, that such part of the said Lots, which have heretofore been ceded to His Majesty, by the Company formerly styled, the Ancienne Compagnie de la Nouvelle France, may be by the said Commissioners, sold in the manner aforesaid, to be holden under, and by such Tenure, as the Governor, Lieutenant Governor or Person administering the Government of this Province, shall please to direct.

XIII. And whereas particular circumstances may require, that a part of the Walls or the Earth and Fortifications aforesaid, should be removed, previous to the sale of any Lots wherein the same may be. It is therefore enacted, that the Commissioners to be appointed under this Act, may consider and report to the Governor, every such necessity of removal, together with all such estimates of expences and advantages, that may have resulted from the removal above mentioned, and may also report, the expediency of disposing of any part of the old materials of the said Walls and Fortifications, and thereupon the Governor, Lieutenant Governor or Person administering the Government of this Province, shall authorise the said Commissioners, to take order therein and effectuate the same in such manner as may be most beneficial, and may authorise the said Treasurer, from time to time, to pay any monies out of the Funds aforesaid, as may be judged necessary in this respect.

XIV. And be it further enacted, by the Authority aforesaid, that the balance of all Monies, to be received, under and by virtue of this Act, after the payment of all such sums, as may, from time to time, have been advanced to the said Commissioners or to the Secretary and Receiver, or to any other Person or Persons in respect of any thing done or performed by them, in pursuance of this Act, by the Governor, Lieutenant Governor or Person administering His Majesty's Government, as may remain in the hands of His Majesty's Receiver General, shall, by the said Receiver General be stated and ascertained in a distinct account, and the same shall be appropriated towards, defraying the expences of the Civil Government of the Province, to be accounted for to His Majesty, through the Lords Commissioners of His Majesty's Treasury, for the time being, in such manner and form, as His Majesty shall be pleased to direct.

XV. And be if further enacted, by the Authority aforesaid, that nothing herein contained shall extend to alter or prejudice the Right of His Majesty, His Heirs or Successors, or those of any Person or Persons, or Body Politic or Corporate whatsoever, not particularly mentioned in this Act.

XVI. And be it further enacted by the Authority aforesaid, that this Act shall be deemed and taken to be a Public Act, and all Judges, Justices and other Persons are hereby required to take notice thereof as such, without the same being specially pleaded.