

Laws of Her Majesty's Province of United Canada, passed in the year 1846. Montreal:
Stewart Derbishire & George Desbarats, 1846.

9 Victoria – Chapter 90

An Act to encourage the establishment of certain Societies commonly called Building Societies, in that part of the Province of Canada formerly constituting Upper Canada. 18th May, 1846.

Whereas it is desirable to afford encouragement and protection to the establishment of certain Societies, commonly called Building Societies, for the purpose of raising by small periodical subscriptions a fund to enable the members thereof to obtain unincumbered freehold or leasehold property; And whereas by an Act passed in the eighth year of Her Majesty's Reign, certain persons were incorporated as a Society for such purposes in the City of Montreal, by the name and style of The Montreal Building Society, and provisions were made for the conduct and management of that Society, and certain privileges and immunities conferred upon it; And whereas it is expedient to encourage the formation of similar Societies throughout that part of this Province heretofore constituting the Province of Upper Canada, whenever the inhabitants of any particular locality may be desirous of availing themselves of the provisions of this Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That when and so soon as any twenty persons or upwards in that part of this Province of Canada, constituting heretofore the Province of Upper Canada shall have agreed to constitute themselves a Building Society, and shall have signed and executed, under their respective hands and seals, a declaration of their wish and intention so to constitute themselves such Building Society, and shall have deposited the same with the Clerk of the Peace in the District in which they shall reside, (who for receiving such deposit shall be entitled to receive a fee of two shillings and six pence) such persons, and such other persons as may afterwards become members of such Society and their several and respective executors, administrators and assigns, shall be ordained, constituted and declared to be, and shall be a corporation, body corporate and politic, by such name and style as a Building Society as by such declaration so deposited as aforesaid shall have been declared to be the name by which the persons so executing the same desire such Society to be known, for the purpose of raising by monthly or other periodical subscriptions of the several members of the said Society, and in shares not exceeding the value of one hundred pounds for each share, (such subscriptions not to exceed twenty shillings per month for each share,) a stock or fund for the purpose of enabling each member thereof to receive out of the funds of the said Society the amount or value of his share or shares therein to erect or purchase one or more dwelling house or houses, or other freehold or leasehold estate, to be secured by way of mortgage or otherwise to the said Society until the amount or value of his share or shares shall have been fully paid to the said Society, with the interest thereon, and with all fines or liabilities incurred in respect thereof; and that it shall and may be lawful to and for the several members of such Society, from time to time to assemble together and to make, ordain and constitute such proper

and wholesome Rules and Regulations for the government and guidance of the same, as the major part of the members thereof so assembled together shall deem meet, so as such Rules shall not be repugnant to the express provisions of this Act, or to the general laws of this Province or of Upper Canada; and to impose and inflict such reasonable fines, penalties, and forfeitures upon the several members of the said Society who shall offend against any such Rules, as the majority of the members may think fit, to be respectively paid to such uses for the benefit of the said Society, as the said Society by such Rules shall direct; and also from time to time to amend and alter such Rules as occasion may require, or annul or repeal the same, and to make new Rides in lieu thereof, under such restrictions as are in this Act contained: Provided that no member shall receive or be entitled to receive from the funds of such Society any interest or dividend by way of annual or other periodical profit upon any share or shares in the said Society until the amount or value of his share or shares shall have been realized; except on the withdrawal of such member, according to the Rules of the said Society then in force.

II. And be it enacted, That it shall and may be lawful to and for every such Society to have and receive from any member or members, such sum or sums of money by way of Bonus on any share or shares, for the privilege of receiving the same in advance prior to the same being realized, besides interest for the share or shares so received or any part thereof, without being subject or liable on account thereof to any of the forfeitures or penalties imposed by any Act or Acts of Parliament, or by any Laws in force in that part of the Province heretofore Upper Canada, relating to Usury.

III. And be it enacted, That every such Society shall and may from time to time, elect and appoint any number of the members of the said Society to be a Board of Directors, (who shall choose a President and Vice-President,) the number and qualification thereof to be declared in the Rules of such Society; and shall and may delegate to such Directors all or any of the powers given by this Act to be executed; and such Directors being so elected and appointed shall continue to act for and during such time as shall be appointed by the Rules of such Society, the powers of such Directors being first declared in and by the said Rules; and in all cases where Directors shall be appointed for any particular purpose, the powers delegated to them shall be reduced to writing and entered in a book by the Secretary or Clerk of the said Society; and a majority of the number of such Directors present at any meeting thereof shall at all times be necessary to concur in any act of such Directors, and they shall in all things delegated to them act for and in the name of such Society; and all acts and orders of such Directors, under the powers delegated to them, shall have the like force and effect as the acts and orders of such Society at any General Meeting thereof could or might have had in pursuance of this Act; Provided always, that the transactions of such Directors shall be entered in a book belonging to such Society, and shall from time to time and at all times be subject and liable to the review, allowance and disallowance of such Society, in such manner and form as such Society shall by their general Rules have directed and appointed or shall in like manner direct and appoint.

IV. And be it enacted, That every such Society so established as aforesaid shall, in or by one or more of their said Rules, declare all and every the intents and purposes for which such Society is intended to be established, and shall also in and by such Rules direct all and every the uses and

purposes to which the money which shall from time to time be subscribed, paid or given to or for the use or benefit of the said Society, of which shall arise therefrom or in anywise shall belong to the said Society, shall be appropriated and applied, and in what shares or proportions and under what circumstances any member of such Society, or other person, shall or may become entitled to the same, or any part thereof: Provided that the application thereof shall not in anywise be repugnant to the uses, intents or purposes of such Society or any of them to be declared as aforesaid; and all such Rules during the continuance of the same shall be complied with and enforced; and the monies so subscribed, paid or given, or so arising to or for the use or benefit of the said Society or belonging thereto, shall not be diverted or misapplied either by the Treasurer or Directors, or any other officer or member of such Society entrusted therewith, under such penalty or forfeiture as such Society shall by any Rule enforce and inflict for such offence.

V. And be it enacted, That the Rules for the management of every such Society shall be entered and recorded in a book to be kept for that purpose, which book shall be open at all seasonable times for the inspection of the members of such Society, but nevertheless nothing contained herein shall extend to prevent any alteration in or amendment of any such Rules in the whole or in part, or making any new Rules for the management of such Society, in such manner as by the Rules of the said Society shall from time to time be provided.

VI. And be it enacted, That all Rules from time to time made and in force for the management of such Society and entered and recorded as aforesaid, shall be binding on the several members and officers of the said Society, and the several contributors thereto, and their representatives, all of whom shall be deemed and taken to have full notice thereof by such entry and record as aforesaid; and the entry of such Rules in the book or books of the said Society as aforesaid or a true copy of the same, examined with the original and proved to be a true copy, shall be received as evidence of such Rules, respectively, in all cases: and no Certiorari, or other legal Process shall be brought or allowed to remove any such Rules into any of Her Majesty's Courts of Record.

VII. And be it enacted, That no Rule entered as aforesaid shall be altered, rescinded or repealed, unless at a General Meeting of the Members of such Society, convened by public notice written or printed, signed by the Secretary or President of the said Society in pursuance of a requisition for that purpose by not less than fifteen of the Members of such Society, which requisition shall state the objects for which the meeting was called, and shall be addressed to the President and Directors; whereupon each member shall be notified of the proposed alterations through the Post Office, within fifteen days; such meeting to consist of not less than one-third of the shareholders, three-fourths of which meeting must concur in such alterations or repeal.

VIII. And be it enacted, That the Rules of every such Society shall specify the place or places at which it is intended that the said Society shall hold its meetings, and shall contain provisions with respect to the powers and duties of the members at large, and of such officers as may be appointed for the management of the affairs of the said society.

IX. And be it enacted, That the Directors of every such Society shall and may from time to time at any of their usual meetings, elect and appoint such person or persons to be Officers of the said

Society as they shall think proper, and grant such salaries and emoluments as they may deem fit, and pay such necessary expenses attending the management of the said Society as may be incurred; and shall and may from time to time elect, when it shall be deemed necessary to carry into execution the purposes of the said Society, for such space of time and for such purposes as shall be fixed and established by the Rules of the said Society, and may from time to time discharge such person or persons, and elect and appoint others in the room of those who shall vacate or die or be so discharged; and all and every such officer or other person whatsoever who shall be appointed to any office in any wise touching or concerning the receipt, management or expenditure of any sum of money collected for the purposes of the said Society, before he shall be admitted to take upon him the execution of any such office or trust, shall become bound in a bond in such form and for such amount as the Directors may determine, with two sufficient sureties, for the just and faithful execution of such office or trust, and for rendering a just and true account according to the Rules of the said Society, and in all matters lawful to pay obedience to the same.

X. And be it enacted, That it shall and may be lawful for every such Society to take and hold any real estate, or securities thereon, bonâ fide mortgaged, or assigned to the said Society, either to secure the payment of the shares subscribed for by its members, or to secure the payment of any loans or advances made by, or debts due to such Society, and they may also proceed on such mortgages, assignments or other securities, for the recovery of the monies thereby secured, either at law or in equity or otherwise, and that such Society shall have the power of investing in the names of the President and Treasurer for the time being, any surplus funds in the stocks of any of the Chartered Banks or other public securities of the Province, and that all dividends, interest and proceeds arising therefrom shall be brought to account and applied to and for the use of the said Society, according to the Rules thereof.

XI. And be it enacted, That if any person appointed to any office by such Society and being entrusted with and having in his hands or possession, by virtue of his said office, any monies or effects belonging to such Society, or any deeds or securities relating to the same, shall die or become bankrupt or insolvent, his heirs, executors, curators, administrators or assigns, or other person having a legal right shall within fifteen days after demand made by the order of the Directors of such Society, or the major part of them assembled at any meeting thereof, deliver over all things belonging to the said Society, to such persons as the said Directors shall appoint.

XII. And be it enacted, That all real estate, monies, goods, chattels, property and effects whatever, and all titles, securities for money or other obligatory instruments and evidences or muniments, and all other effects whatever, and all rights and claims belonging to or had by such Society, shall be vested in the President and Treasurer of the said Society for the time being for the use and benefit of the said Society and the respective members thereof, their respective executors, administrators or assigns, according to their respective claims and interests, and after the death or removal of any President or Treasurer, shall vest in the succeeding President and Treasurer for the same estate and interest as the former President and Treasurer had therein, and subject to the same trusts, without any assignment or conveyance whatever; and also shall for all purposes of action or suit as well criminal as civil, in law as in equity, in anywise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding (when necessary) be stated

to be, the property of the persons appointed to the offices of President and Treasurer of the said Society for the time being, in the proper names of such President and Treasurer, without further description, and such persons shall and they are hereby authorized to bring or defend, or cause to be brought or defended any action, suit or prosecution, criminal as well as civil, in law or in equity, touching or concerning the property, right or claim aforesaid, of or belonging to or had by the said Society, and in all cases concerning the property, right or claim aforesaid of the said Society, may sue and be sued, plead and be impleaded in their proper names as President and Treasurer of the said Society without other description, and no such suit, action or prosecution shall be discontinued or abated by the death of such persons or their removal from the offices of President or Treasurer, but shall continue in the proper name of the persons commencing the same; any law, usage or custom to the contrary notwithstanding; and the succeeding President and Treasurer shall have the same rights and liabilities, and shall pay or receive like costs as if the action or suit or prosecution had been commenced in their names, for the benefit of or to be satisfied out of the funds of the said Society.

XIII. And be it enacted, That in all such actions, suits and prosecutions as aforesaid, the Secretary of such Society, shall be a competent witness, notwithstanding he may also be Treasurer of the said Society, and that his name may have been used in such action, suit or prosecution as such Treasurer.

XIV. And be it enacted, That the President, Vice-President, and Directors of every such Society shall, in their private capacity, be exonerated from all responsibility in relation to the liabilities of such Society.

XV. And be it enacted, That the Rules of every such Society shall provide that the Treasurer or other principal Officer thereof shall once at least in every year prepare or cause to be prepared a general statement of the funds and effects of or belonging to the said Society; specifying in whose custody or possession the said funds or effects shall then be remaining, together with an account of all and every the various sums of money received and expended by or on account of the said Society since the publication of the preceding periodical statement; and every such periodical statement shall be attested by two or more members of the said Society appointed Auditors for that purpose, who shall not be Directors, and shall be countersigned by the Secretary or Clerk of the said Society, and every member shall be entitled to receive from the said Society a copy of such periodical statement, without charge.

XVI. And be it enacted, That the word "Society" in this Act shall be understood to include and to mean Building Society and Institution established under the provisions and authority of this Act; the word "Rules" to include Rules, Orders, By-Laws and Regulations; every word importing the singular number shall extend and be applied to several persons or things as well as one person or thing, and bodies corporate as well as individuals; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; the words "Real Estate" shall extend and apply to immoveable estate and property generally; and the word "securities" shall extend and apply to privileges, mortgages, (equitable as

well as legal,) and incumbrances upon real and immoveable estate, as well as to other rights and privileges upon personal estate and property: That this Act shall extend to aliens, denizens and females, both to make them subject thereto and to entitle them to all the benefits given thereby; and that this Act shall be construed in the most beneficial manner for promoting the ends thereby intended.

XVII. And be it enacted, That this Act shall be deemed a Public Act, and shall extend to all Courts of Law or Equity in this Province, and be judicially taken notice of as such by all Judges, Justices and other persons whatsoever without the same being specially shown or pleaded.