

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart Derbshire & George Desbarats, 1849.

12 Victoria – Chapter 58

An Act to provide for the indemnification of parties in Lower-Canada whose property was destroyed during the Rebellion in the years one thousand eight hundred and thirty-seven, and one thousand eight hundred and thirty-eight. 25th April, 1849.

Whereas on the twenty-eighth day of February, one thousand eight hundred and forty-five, an humble Address was unanimously adopted by the Legislative Assembly of this Province, and by them presented to the Right Honorable Charles Theophilus Baron Metcalfe, the then Governor-General of the same, praying “that His Excellency would be pleased to cause proper measures to be adopted in order to insure to the inhabitants of that part of this Province formerly Lower-Canada, indemnity for just losses by them sustained during the Rebellion of one thousand eight hundred and thirty-seven, and one thousand eight hundred and thirty-eight and whereas on the twenty-fourth day of November, one thousand eight hundred and forty-five a Commission of five persons was, by His Excellency the said Governor-General, duly appointed to enquire into such losses arising from and growing out of the said Rebellion; And whereas it appears by the Report of the said Commissioners, dated the eighteenth day of April, one thousand eight hundred and forty-six, that “the want of power to proceed to a strict and regular investigation of the losses in question, left the Commissioners no other resource than to trust to the allegations of the claimants, as to the amounts and nature of their losses;” And whereas, in order to redeem the pledge given to the sufferers of such losses, or their *bonâ fide* creditors, assigns, or *ayants droit*, as well by the said Address of the said Legislative Assembly, and the appointment of the said Commission, as by the letter addressed by the Honorable the Secretary of the Province, by order of the Right Honorable Charles Murray, Earl Cathcart, the then Administrator of the Government of the same, to the said Commissioners, on the twenty-seventh day of February, one thousand eight hundred and forty-six, it is necessary and just that the particulars of such losses, not yet paid and satisfied, should form the subject of more minute inquiry under Legislative authority, and that the same, so far only as they may have arisen from the total or partial, unjust, unnecessary or wanton destruction of the dwellings, buildings, property and effects of the said inhabitants, and from the seizure, taking or carrying away of their property and effects, should be paid and satisfied; provided that none of the persons who have been convicted of high treason, alleged to have been committed in that part of this Province formerly the Province of Lower-Canada, since the first day of November, one thousand eight hundred and thirty-seven, or who having been charged with high treason or other offences of a treasonable nature, and having been committed to the custody of the Sheriff in the Gaol of Montreal, submitted themselves to the will and pleasure of Her Majesty, and were thereupon transported to Her Majesty’s Islands of Bermuda, shall be entitled to any indemnity for losses sustained during or after the said Rebellion, or in consequence thereof: 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, for the purposes of this Act, it shall be lawful for the Governor in Council to authorize the issue of Debentures, payable out of the Consolidated Revenue Fund of this Province, at or within twenty years after the date thereof, respectively, and bearing interest at the rate of six per cent., payable out of the said Fund on such day in each year as shall be therein specified, provided the total amount of the said Debentures shall not exceed the sum hereinafter mentioned.

II. And be it enacted, That the said Debentures may be issued in such form and for such separate sums, respectively, as the Governor in Council shall deem expedient, and may be issued either to such parties as shall be willing to advance money for the same, or to parties to whom money shall be awarded for compensation of losses under this Act, or who shall demand them in exchange for Debentures of like amount issued under the Act hereinafter mentioned.

III. And be it enacted, That the holder of any Debenture issued under the authority of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to provide for the payment of certain Rebellion Losses in Lower-Canada*, and to appropriate the proceeds of the Marriage License Fund, may, on any day on which the interest on such Debenture is payable, have the same exchanged for a Debenture, for a like amount to be issued under this Act, and the interest then payable on such Debenture shall at the same time be paid out of the said Consolidated Revenue Fund, and the proceeds of so much of that portion of the Marriage License Fund arising in Lower-Canada as shall not be required to pay off the principal and interest of any unexchanged Debenture, shall form part of the said Consolidated Revenue Fund.

IV. Provided always, and be it enacted, That the Governor in Council may, at any time, by notice in the Canada Gazette, require that all the Debentures issued under this Act be presented at a time certain, and not less than six months from the date of such notice, for payment of the principal and interest thereof in full; and such payment shall be made accordingly out of the said Consolidated Revenue Fund, and after the time so appointed no interest shall accrue on the Debentures which shall not be so presented.

V. And be it enacted, That the Debentures issued under this Act shall be distinguished from those issued under other Acts, and that separate accounts shall be kept thereof, and of all money expended under this Act; and that such accounts shall be laid annually before the Provincial Parliament; and that the due application of all money expended under this Act shall be accounted for to Her Majesty, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty shall please to direct.

VI. And be it enacted, That it shall be lawful for the Governor to appoint five persons to be Commissioners under this Act, and from time to time to remove them or any of them, and to appoint another or others in the place of any so removed, or dying, or resigning office.

VII. And be it enacted, That each of the said Commissioners shall, before entering upon the duties of his office, take and subscribe, before any Justice of the Peace, the following oath:

“I, _____, swear that I will faithfully and without partiality, fear, favour or affection, perform my duty as Commissioner under the Act, intituled, An Act, &c., (insert the title of this Act,) and that I will allow to each claimant under the said Act, neither more nor less than the sum which he is entitled to claim for compensation, according to the true intent and meaning of the said Act. So help me God.”

Which oath shall be entered on the minutes of the proceedings of the said Commissioners, and make part thereof.

VIII. And be it enacted, That it shall be lawful for the Governor from time to time to appoint a Clerk to the said Commissioners, and the same to remove, and in case of any such removal, or of death or of resignation of office of the said Clerk, to appoint another in his place; and the Commissioners and their Clerk, shall receive for their services under this Act, and for their necessary expenses and disbursements, such compensation as shall be allowed by the Governor in Council, and no other fees or emoluments whatsoever; and such compensation shall be defrayed out of the said Consolidated Revenue Fund.

IX. And be it enacted, That the amount of the Debentures to be issued under this Act, and the amount of the said compensation to be allowed to the said Commissioners and Clerk, shall not exceed the sum of one hundred thousand pounds currency, which sum shall also include the sum of nine thousand nine hundred and eighty-six pounds, seven shillings and two pence, raised by Debentures issued under the said Act hereinbefore mentioned.

X. And be it enacted, That it shall be the duty of the said Commissioners faithfully and without partiality to enquire into and to ascertain the amount of the losses mentioned in the Preamble to this Act, as those for which compensation ought to be made, and to report the same to the Governor of this Province.

XI. And be it enacted, That the powers vested in, and duties required of, the said Commissioners, or of any three of them, under this Act, shall also extend and be construed to extend to inquire into all such losses sustained by Her Majesty’s subjects and other residents within the said late Province of Lower-Canada, and the several claims and demands which have accrued to any such persons by such losses, in respect of any loss, destruction, or damage of property occasioned by violence on the part of persons in Her Majesty’s service, or by violence on the part of persons acting or assuming to act on behalf of Her Majesty, in the suppression of the said Rebellion, or for the prevention of further disturbances, and all claims arising under or in respect of the occupation of any houses or other premises by Her Majesty’s Naval or Military forces, either Imperial or Provincial; subject always to the limitations and exceptions contained in the Preamble of this Act.

XII. And be it enacted, That the Commissioners appointed under this Act, shall hold their sittings publicly at such places and times, and for such counties, parishes or other territorial divisions respectively, as the Governor in Council shall from time to time direct and notify to them through the Provincial Secretary, and shall give such public notice of their said meetings as they shall in like

manner be required to give; and at such meetings any three of the said Commissioners shall be a *quorum*, and any report, award or proceeding in which three of the Commissioners shall concur, shall be deemed to be made or done by the Commissioners; Provided always, that no sitting of the said Commissioners shall be held after the first day of September, one thousand eight hundred and fifty, and no claim shall be received by them after the first day of May, one thousand eight hundred and fifty.

XIII. And be it enacted, That the said Commissioners shall have full power and authority to examine upon oath (which oath any one of them may administer) any person who shall appear before them, either as a claimant or as a witness for or against any claim, or for the better information of the Commissioners concerning the same; and shall have full power and authority to summon before them any person or party whom they may deem it expedient to examine touching any claim, and to require him to bring with him, and produce any book, paper, instrument, document or thing mentioned in the summons, and supposed to be necessary to the determination of any such claim; and if any person or party so summoned shall, after due notice, refuse or neglect to attend before them, or being so summoned and attending, shall refuse to answer any lawful question put to him by the Commissioners, or any one of them, or to bring and produce any book, paper, instrument, document or thing in his possession, which he shall by the summons, have been required to bring with him and produce, the said Commissioners may cause such person or party, if not already before them, to be apprehended and brought before them, and may, in their discretion, commit him to the common gaol of the District, for a period not exceeding three months; and any person making any wilfully false statement on oath before the said Commissioners or any one of them, shall be adjudged guilty of wilful and corrupt perjury; provided always, that no claim shall be allowed upon the oath of the claimant, unless he shall be corroborated in all the important particulars by indifferent and unsuspected witnesses, or other testimony.

XIV. And be it enacted, That the said Commissioners shall, on or before the first day of September, one thousand eight hundred and fifty, report their proceedings to the Governor, stating more especially the sum they shall have allowed, for such losses as aforesaid, to each claimant respectively; and if the total amount of the sums so allowed, and the said sum of nine thousand nine hundred and eighty-six pounds seven shillings and two pence, and the expenses incurred under this Act, shall exceed the sum of one hundred thousand pounds, then the expenses incurred under this Act shall be first provided for, and secondly the said sum of nine thousand nine hundred and eighty-six pounds seven shillings and two pence, and the remaining sum shall be distributed among the claimants in proportion to the sums allowed to them respectively, by the Commissioners or any three of them.