

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

12 Victoria – Chapter 5

An Act for the better management of the Public Debt, Accounts, Revenue and Property. 25th April, 1849.

Whereas it is expedient to make better provision for the management of the Public Debt of this Province, and for keeping the Public Accounts thereof in a clear and satisfactory manner, and for the regular appropriation of a portion of the Annual Revenue to the Sinking Fund for the redemption of the Debt, and for enabling the Provincial Government to relinquish the charge of managing various Local Works, which at present produce little revenue, and which could be more conveniently and economically managed by the Municipal Councils, or other Local Corporations or Authorities, or by Incorporated Companies: 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, and 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 it shall be lawful for the Governor of this Province, by and with the advice of the Executive Council thereof, from time to time, and as the interests of the Public Service may require, to redeem or to purchase on account of the Province, all or any of the then outstanding Debentures constituting the Public Debt of the Province of Canada, or of either of the late Provinces of Lower or Upper Canada, or all or any of the Debentures issued by Commissioners or other Public Officers, under the authority of the Legislatures of either of the late Provinces of Upper or Lower Canada, or of the Legislature of Canada, the interest or principal of which Debentures is made a charge on the Consolidated Revenue Fund of this Province, and to issue new Debentures to an amount not exceeding that of the Debentures so redeemed or purchased, or it shall be lawful for the said Governor in Council to arrange with the holders of any such Debentures as are hereinbefore described to accept in lieu thereof new Debentures, which the said Governor in Council is hereby authorized to cause to be issued, and the principal or interest whereof shall be respectively payable out of the Consolidated Revenue Fund of this Province at such times as the said Governor in Council may direct; and all Debentures authorized by this Act may be, made payable in Sterling Money of Great Britain or in the Currency! of this Province, and may be made payable, as may also the interest thereon, at such place either within or without this Province as the said Governor in Council may direct, and the interest on such Debentures may be fixed at such rate not exceeding the then legal rate, as the said Governor in Council may direct; Provided always, That nothing in this Act shall be construed to authorize the Governor in Council to increase the aggregate amount of the Public Debt of the Province without the authority of the Provincial Parliament: but this shall not be construed to prevent the issue of Debentures, as aforesaid, for the purpose of applying the proceeds thereof to the purchase or redemption of other Debentures.

II. And be it enacted, That of the Debentures which the Governor in Council is or may be authorized to cause to be issued under this or any other Act passed or to be passed, a sum not exceeding two hundred and fifty thousand pounds, currency, maybe issued in Debentures being each for a sum less than ten, pounds, currency, and that such Debentures may be made payable on demand or at any time after date, and with or without interest, and may be receivable in payment of monies payable to the Provincial Government generally or in payment of such duties or dues, and by such Officers or Departments, and upon such terms and conditions as the Governor in Council shall from time to time appoint, and being so received, may be re-issued or may be cancelled and others issued in their stead; Provided that the total amount of such Debentures as aforesaid outstanding at any one time, shall not exceed the said sum of two hundred and fifty thousand pounds, and that the total amount of all Debentures including those mentioned in this Section shall not at any time exceed the amount then authorized by law.

III. And whereas it appears that owing to the pressure of just demands upon the Provincial Government, which the funds in the public chest were insufficient to meet, Debentures of the description mentioned in the next preceding, Section have been issued under the authority of the Governor in Council, since the first day of July, one thousand eight hundred and forty-eight, and have under the said authority been received in payment of duties and of other monies payable to the Provincial Government, and being so received have been cancelled and others have been issued in their stead, but the total amount of such Debentures outstanding at any one time has not exceeded the sum of one hundred and twenty-five thousand pounds, and the total amount of all Debentures outstanding has never exceeded the amount authorized by law: And whereas the exigencies of the public service are such as it may be necessary for the preservation of the public faith, that the course adopted as aforesaid should be continued until the Provincial Parliament shall have made provision in this behalf; And whereas the course adopted by the Provincial Government, although justified by the necessity of the case, is not within the letter of the law, and it is therefore expedient to indemnify all persons who may have been concerned in the adoption thereof: Be it therefore enacted, That all Debentures of the description mentioned in the next preceding Section issued or received in payment as aforesaid; since the said first day of July, one thousand eight hundred and forty-eight, and which if this Act had been then in force would have been lawfully issued and received in payment as aforesaid, shall be held to be lawfully issued and received, and all officers and persons having issued or received or having been concerned in issuing or receiving the same, are hereby indemnified and saved harmless from all suits, proceedings or inquiries to which without this Act they might be subject; Provided the total amount of such Debentures as aforesaid outstanding at any one time before the passing of this Act, shall not have exceeded the sum of one hundred and twenty-five thousand pounds, and that the total amount of all Debentures outstanding at any one time before the passing of this Act, shall not have exceeded the amount then authorized by law, and not otherwise.

IV. And be it enacted, That it shall be lawful for the said Governor in Council to direct the proper Officers to grant Terminable Annuities chargeable on the Consolidated Revenue Fund of this Province, such annuities being granted on terms in accordance with the most approved English Tables, and based on a rate of interest not exceeding six per centum per annum, and to apply the proceeds of such grants to the extinction of the Public Debt.

V. And be it enacted, That from and after the passing of this Act, the entire Net Revenue derived from the Tolls on Public Works, after deducting therefrom the sum of Twenty Thousand Pounds, which shall be annually placed at the credit of the Consolidated Revenue Fund and shall form part thereof, shall be carried to the credit of the Sinking Fund, and shall form part thereof; and it shall be lawful for the said Governor in Council to direct the investment of all sums forming part of the Sinking Fund, either in the Public Securities of this Province, or in the British Funds: Provided, firstly, that it shall be lawful for the said Governor in Council, from time to time, to direct the transfer from the Consolidated Revenue Fund to the Sinking Fund, of any unappropriated Revenue which it may at the close of each year he found practicable to apply towards the extinction of the Public Debt, and the sums so transferred, shall be invested in the Securities hereinbefore mentioned: Provided secondly, that nothing in this Section shall be construed to repeal or affect the provisions of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to facilitate the issue of Debentures, and for other purposes therein mentioned.*

VI. And be it enacted, That it shall be lawful for the said Governor in Council from time to time to make such Regulations as he may deem necessary for the management of the Public Debt of this Province, and the payment of the interest thereon, and to appoint one or more fiscal Agents of the Province in the City of London, and to agree with them as to the rate of compensation to be allowed them for negotiating Loans, and for paying the interest on the Public Debt, and for other services connected with the management of the said debt, and to pay such compensation out of the Consolidated Revenue Fund.

VII. And whereas owing to the fluctuations of Commerce, it may occasionally happen that the Revenue of this Province, consisting, principally of Customs Duties, may fall short of the amount anticipated, by the Legislature, and that in consequence thereof the Consolidated Revenue Fund may be insufficient to meet the charges placed thereon by law: Be it enacted, That it shall be lawful for the said Governor in Council, from time to time, as the exigencies of the Public Service may require, in consequence of the Consolidated Revenue Fund being at the time insufficient to meet the charges placed thereon by law, to direct the proper Officers to effect temporary Loans chargeable on the said Consolidated Revenue Fund, in such manner and form, in such amounts, and payable at such periods, and bearing such rates of interest not exceeding the then legal rate per centum per annum, as the said Governor in Council may direct; Provided always, that such Loans shall, not exceed the amount of the deficiencies in the said Consolidated Revenue Fund to meet the charges placed thereon by law.

VIII. And whereas various appropriations have been made by Parliament since the period of the Reunion of the late Provinces of Upper and Lower Canada, for the construction of Public Works, without any authority having been given to raise by loan the sums so granted, and in consequence of such omission the said appropriations have been paid out of or held to be a charge upon the Consolidated Revenue Fund, thereby causing serious derangement to the Finances of the Province: Be it enacted, That it shall be lawful for the said Governor in Council, to direct the proper Officer to ascertain as accurately as possible the amount of the appropriations for permanent works which have been paid out of the Consolidated Revenue Fund, and to credit the said Fund

for the aggregate amount of the said payments, charging the same to the respective public works; and it shall be lawful for the said Governor in Council to issue Debentures for such portion of the said appropriations as may be necessary to enable the Consolidated Revenue Fund to meet the charges placed upon it by law, and which the surplus and unappropriated Revenues of the Province paid into the Provincial Chest prior to the first of January, one thousand eight hundred and forty-nine, have been insufficient to cover and to cause a separate statement to be inserted in the then next Public Accounts of whatever may have been done in the behalf aforesaid: Provided always, that such Debentures shall not be issued for sums less than Ten Pounds Currency, each, and shall not in the whole exceed the sum of Two Hundred Thousand Pounds.

IX. And be it enacted, That the Public Accounts of the Province shall be kept by Double Entry in the Offices of the Receiver General, and of the Inspector General of Public Accounts, and an annual statement shall be prepared as soon as practicable after the termination of each fiscal year, exhibiting the state of the Public Debt and the amounts chargeable against each of the Public Works for which any part of the Debt has been contracted, also the state of the Consolidated Revenue Fund and of the various Trusts and Special Funds under the management of the Provincial Government, and such other accounts and matters as may be required to shew what the Liabilities and Assets of the Province really are at the date of such statement.

X. And in order to simplify the Public Accounts and to exhibit more clearly the true state of public affairs—Be it enacted, That an Account shall be opened in the Books of the Province, intituled, “Losses by Public Works or otherwise,” which shall be debited with such sums as have been expended on works which; are wholly unproductive, and which shall, have been altogether abandoned, and also with the balance due to the Province by the late Firm of Thomas Wilson and Company, of London, and also with such balances due by Public Accountants or Incorporated Companies as it shall be deemed impossible to collect, owing to the insolvency of the Debtors or from other causes, and also with any balance which may be found at the debit of the old Sterling Debenture Account after computing the amount of such Debentures in Currency, at the legal par of Exchange and also with the amount of all Bonds given for Customs or Timber Duties, which, owing to the insolvency of the Signers of such Bonds it shall be deemed impossible to collect: and with the amount of all other sums advanced or expended by or due to the Province, which shall be deemed totally lost: Provided always, that a separate statement of all entries on the Debtor side of the said Account, shall be annually submitted to Parliament with the Public Accounts.

XI. And be it enacted, That the Balance which appears at the Debit of the Account intituled “Civil List Schedule A,” shall be transferred to the Debit of the Consolidated Revenue Fund, and the Balance which appears at the Credit of the Account intituled “Civil List Schedule B,” shall be transferred to the Credit of the said Consolidated Revenue Fund.

XII. And be it enacted, That it shall be lawful for the said Governor in Council to enter into arrangements with any of the Municipal or District Councils, or other Local Corporations or Authorities, or with any Company in Lower or Upper Canada, incorporated for the purpose of constructing or holding such works, or works of like nature in the same section of the Province, for the transfer to them of any of the Public Roads, Harbours, Bridges or Public Buildings, which it may

be found more convenient to place under the management of such local Authorities or Companies, and on the completion of such arrangements, to grant (and by so granting, to transfer and convey) for ever, or for any term of years, all or any of such Roads, Harbours, Bridges or Public Buildings, to the District or Municipal Council, or other Local Authority or Company with whom such arrangement may have been made (hereinafter called the Grantee,) and upon such terms and conditions as may have been agreed upon, and that all monies payable to the Province under the terms of any such grant, shall be carried to the credit of the Sinking Fund and form part thereof.

XIII. And be it enacted, That any such grant, as aforesaid, of any of the said Public Works, may be made by Order of the Governor in Council, published in the Canada Gazette; and by such Order, any or all of the powers and rights vested in the Crown or in the Governor in Council, or in any Officer or Department of the Provincial Government, with regard to the Public Work thereby granted, may be granted to and vested in the Grantee to whom the Public Work itself is thereby granted; and such Order in Council may contain such conditions, clauses, restrictions and limitations as may be agreed upon as aforesaid, which, as well as all the provisions of such Order in Council, shall, (in so far as they shall not be inconsistent with this Act, and shall not purport to grant any right or power which shall not be immediately before the making of such Order in Council vested in the Crown or in the Governor in Council, or in some Officer or Department of the Provincial Government,) have full force and shall be obeyed, as if they had been contained in this Act, and had made part of the enactments thereof; and any such Order in Council may, with the consent of the Grantee, be revoked or amended by any subsequent Order in Council published as aforesaid; and a copy of the Canada Gazette containing any such Order in Council shall be evidence thereof, and the consent of the Grantee thereto shall be presumed unless disputed by such Grantee, and if disputed, shall be proved by any copy of such Order in Council on which the consent of the Grantee thereto shall be written and attested by such signature or seal, or both, as would be sufficient to make any Deed or Agreement the Deed or Agreement of such Grantee: Provided always, that nothing in this Act or in any Order in Council to be made under it, shall be construed to exempt any person from any punishment or penalty imposed by any Act or Law or under the authority of any Act or Law, for any offence relative to any Public Work or Works, but so much of any such penalty as would otherwise belong to the Crown, shall, if it be so provided in the Order in Council, belong to the Grantee under such Order, otherwise it shall belong to the Crown, but this shall not prevent the repeal or alteration by the Grantee, of any such penalty imposed by the Governor in Council under the authority of any Act, if the power to repeal or alter the same be transferred in the manner aforesaid to such Grantee, or by the Governor in Council with the consent of the Grantee, if such power be not so transferred.

XIV. And be it enacted, That the due application of alimonies expended under the authority of this Act 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.