

Laws of Her Majesty's Province of Upper Canada, passed in the year 1850. Toronto: Stewart Derbshire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 34

An Act to amend the Municipal Law of Lower Canada. 10th August, 1850.

Whereas it is expedient to amend the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*: Be it therefore declared and 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 declared and enacted by the authority of the same, That the Municipal Councils of Lower Canada have and shall have full power from time to time, as occasion may require, to revise, amend and alter the Assessment Rolls by them already caused to be made or hereafter to be made: Provided always, that such revision, amendment, or alteration, be made previous to the month of July in any or each year.

II. And be it enacted, That after the passing of this Act, such Municipal Councils, if they see fit, may cause the rateable property in any Parish or Township to be revalued, if in the opinion of such Council the valuation already made shall be so undervalued as to make such re-valuation necessary.

III. And be it enacted, That it shall not be necessary that the Assessors or other persons appointed to make any valuation of rateable property, reside in the Parish or Township in which such property is situated, but such Assessors or Valuers may be chosen from amongst the inhabitants residing in any Parish or Township within the limits of the Municipality in which such valuation shall be made.

IV. And be it enacted, That the Municipal Councils of Lower Canada, shall have power to make and raise a rate in any year for general purposes, of one half-penny in the pound upon the assessed value of all the rateable property lying or situate within the limits of the Municipality, over and above any rate that may be raised for local purposes; any thing in the said first mentioned Act to the contrary notwithstanding.

V. And be it enacted, That the Municipal Councils shall have power and authority to impose a special rate upon any Township or Parish for the construction or repair of any public bridge, not being within the limits of such Township or Parish but which may be required for the use or convenience of the inhabitants of such Township or Parish, over and above all other rates: Provided nevertheless, that no such rate shall be imposed without the consent of the Councillors representing such Township or Parish.

VI. And be it enacted, That if it become necessary for the convenience of the public to open, make or construct a front road through any unconceded lands in any Seigniorie [seigneurie], it shall be lawful for the Municipal Council of the Municipality in which such Seigniorie shall be situate, to cause such unconceded lands, to the extent of thirty arpents in depth, on each side of the line of such projected road, to be assessed, and to impose on such lands, one twelfth portion of the rate which would be imposed upon such lands if the same were conceded; and as the extent of such lands cannot be, in many instances, easily ascertained, the Seignior in possession of any such unconceded lands, shall be required, upon demand by the Secretary-Treasurer, to furnish a plan and description specifying the extent of the unconceded lands held by him in any such Municipality, and the correctness of such plan, description and specification, shall be by him certified under oath, to be taken before any Justice of the Peace; and in the event of any such Seignior refusing or neglecting to furnish such plan, description and specification to the Secretary-Treasurer within one calendar month from the time the same shall have been demanded, he shall be liable to a penalty of Ten Pounds currency, and to a further penalty of One Pound for each day which shall elapse after the expiration of such month, without such statement having been delivered to such Secretary-Treasurer.

VII. And be it enacted, That any Township or extra-parochial place containing three hundred Souls shall hereafter be entitled to elect Councillors in the manner provided by law, and shall be considered a Township or Parish for all Municipal purposes, although such Township or extra-parochial place may have been hitherto attached for such purposes to some other Township or Parish: and any such Township or extra-parochial place may proceed to the election of such Councillors at any time which, after the passing of this Act, may be appointed by the senior Justice of the Peace resident therein, or if there be none, then according to the provisions of the above recited Act.

VIII. And be it enacted, That any Councillor, Officer or other functionary who shall neglect to make the oath required by the sixteenth and seventeenth Sections of the said first recited Act in the manner therein specified, within eight days from the notification to him of his election or appointment, shall be liable to pay a penalty of five pounds, currency, and an additional penalty of one pound, currency, for each additional day which he may allow to elapse without taking such oath, except in case of unavoidable absence.

IX. And be it enacted, That in the collection of any rate, it shall not be necessary that a personal demand be made upon the respective rate-payers, but only that notices be posted up at such places as the Councils shall appoint, specifying such rate, and the place where and the period within which the same shall be paid—such notice to be signed either by the Collector of the Parish or Township, or by the Secretary-Treasurer; and any rate which shall remain unpaid six months after the period fixed for payment thereof, shall bear interest at the rate of ten per centum per annum, to be reckoned from the expiration of the period so to be fixed for payment thereof: Provided always, that nothing herein contained shall be construed to prevent the enforcing payment of such rate before the expiration of six months.

X. And be it enacted, That the Justices of the Peace resident in each Municipality, or any one of them, shall have concurrent jurisdiction with the Commissioners for the trial of small causes, in all suits or actions which may be brought for the recovery of any fine or penalty imposed, or any rate or sum of money claimable by any Municipal Council under the authority of this Act or of the Act hereby amended, or any other Act or law relating to the establishment of Municipalities, whether there be any such Court of Commissioners held in the Parish or Township in which any such suit or action shall be brought or not, and whether the Defendant reside in such Municipality, or in any other part of the Judicial District in which such Municipality shall be: Provided always, that nothing herein contained shall affect or be construed to affect the right of appeal which now by law lies from all judgments rendered in such cases to the nearest Circuit Court.

XI. And be it enacted, That for and notwithstanding any thing contained in the seventy-first Section of the said first recited Act, any suit or action brought for the recovery of any penalty or forfeiture imposed, or of any rate or sum of money due under the authority of this or the above recited Apt, or of any other Act or law relating to the establishment or management of Municipalities in Lower Canada, may be determined upon the oath of the Inspector or any one of the Councillors of such Municipality, or upon the oath of any other credible witness.

XII. And be it enacted, That the Justice or Justices of the Peace, as well as the Commissioners for the trial of small causes, before whom any such judgment may have been recovered, shall have power to issue Writs of *Saisie Arret* in the hands of third persons, as in other civil matters in Lower Canada.

XIII. And be it enacted, That when the proprietor of any lands liable to rate, and upon which any rate or rates, sum or sums of money is or are in arrears, shall reside out of the Judicial District in which such lands may be situate, then and in that case, service of the Writ of Summons in any suit or action brought for the recovery of any such rates or sums of money, may be made upon the known or reputed agent of such proprietor, if such agent be resident within such Judicial District, or at his office or domicile; and if the proprietor of any lands upon which any such rates or sums of money are or shall become due, have no agent resident within such Judicial District, a copy of such Writ of Summons shall be inserted in the Canada Gazette, and one other public newspaper, published within such Judicial District, in both the English and French languages, at least two months before the day appointed in such Writ for the appearance of the Defendant; and the production of the numbers of the Gazette and newspaper respectively, containing such copy of such Writ of Summons, shall be taken and considered as proof of the due service of the same.

XIV. And be it enacted, That where by any law of this Province in force in Lower Canada, a qualification in real property shall be necessary to enable any person or persons to hold any office in Lower Canada, the Assessment Roll of the locality in which such property may be situate, shall be the criterion of the value of such property.

XV. And be it enacted, That whenever any Inspector of Fences and Ditches, or any Surveyor or Overseer of roads, shall, after having been appointed by the Municipal Council of any Municipality in any Parish or Township therein, under and by virtue of the Act above cited, be disqualified in

any manner whatsoever, either at the time of such appointment or at any period between two consecutive Sessions of the said Municipal Council, then it shall be the duty of the Councillor of such Parish or Township, who shall be the oldest in office, to appoint a fit and proper person to fill the vacancy caused by such disqualification, and the name of such person shall be submitted by him to the said Municipal Council at their next ensuing Session, for their approval of such appointment; and any person so appointed shall fulfil the duties and obligations of such office in the same manner as if he had been appointed by the said Municipal Council, and shall be subject to the same penalties for the non-fulfilment of the duties and obligations of such office, as are in such case provided by the above cited Act.

XVI. And be it enacted, That any person who, not having paid his rates, shall vote at any election of a Councillor, shall incur a penalty of not less than twenty-five shillings, nor more than fifty shillings, for every such offence, and if such election shall be afterwards contested, such vote or votes shall be struck off the Poll Lists, whether such vote or votes was or were objected to at the time of voting or not.

XVII. And be it enacted, That the seventeenth, eighteenth and nineteenth Sections of the said first recited Act shall be and the same are hereby repealed.

XVIII. And be it enacted, That all rates imposed by any Municipal Council upon any lot of land under the authority of this Act or of the Act herein above recited, or of any other Act, shall be payable by and recoverable from the owner of such land, or from the occupant or possessor thereof; and shall without registration be a special charge bearing the first *hypothèque* thereon.

XIX. And be it enacted, That in default of sufficient goods and chattels belonging either to the owner or to the occupant or possessor of such land, or to both, being found within the Judicial District in which such land is situate, the said land or such portion thereof as may be required, shall after the expiration of six months from the period appointed for the payment of such rate or rates, be liable to be sold for the satisfaction of the amount due for such rate or rates, including all costs and expenses attendant upon the recovery thereof.

XX. And be it enacted, That it shall be the duty of the Secretary-Treasurer of each Municipal Council, to cause to be inserted, at least twice during the month of December of each year, in the Official Gazette, and in one other public Newspaper published within the Judicial District in which such Municipal Council shall hold its sittings, a notice in the English and French languages, containing a list of all the lots of land which shall be liable to sale for arrears of rates, and announcing to all whom it may concern, that all such lots of land will be sold at the place of the sittings of such Council, on the first Monday in the month of February then next ensuing for the payment of the arrears of rates due thereon, the amount of which arrears, including all costs and expenses, shall be mentioned opposite the number or designation of each such lot of land, which, if situate in a Township, shall be described by its number and range, and if in a Seigniorie, by its metes and boundaries; and the said Secretary-Treasurer shall also in the same month of December, cause a copy of such notice to be affixed at the door of the Church or other place of public worship in each of the Parishes or Townships in which any of the lands so liable to be sold,

as aforesaid, shall be situate, and if there be no Church or other place of public worship in such Parish or Township, such notice shall be affixed at two of the most public and conspicuous places in such Parish or Township.

XXI. And be it enacted, That the mode of selling such lots of land shall be by public auction as follows, that is to say:

The Secretary-Treasurer, or, in his unavoidable absence, the Mayor, or any one of the Municipal Councillors, shall, on the day and at the hour and place appointed for such sale, declare the amount due for rates upon the lots of land respectively, and for the costs and expenses attending the recovery thereof, and the person who shall offer to pay the amount of such rates, costs and expenses for the least quantity or portion of the land on which they are charged, shall be considered the purchaser thereof, and to such person shall such quantity or portion thereof be adjudged; Provided always, that the quantity so sold, unless it form the whole of such lot of land, if situate in a Seignior, shall not contain in its front line more than one-sixth of its depth, and if situate in a Township, shall not contain more frontage than one-third of its depth; and provided also that it shall be measured off from one or other of the front angles of the entire lot of land; and that at every subsequent sale under this Act, the proper Officer shall, in selling any further portion of any such lot, begin with a tract of equal width to the former, measuring backward from the rear line of the tract previously sold.

XXII. And be it enacted, That in every case in which from the position or description of the lot of land so to be sold, the mode herein described cannot be pursued, then it shall be in the discretion of the Secretary-Treasurer, or other proper Officer, to sell such portion of such lot of land as shall appear to him best for the interest of the original proprietor thereof.

XXIII. And be it enacted, That if any purchaser or purchasers shall fail to pay the amount declared on the day of the sale, it shall be lawful for the Secretary-Treasurer, or other proper Officer, to adjourn the sale to any day not more than eight days distant, by giving to all persons present notice of such adjourned sale, in an audible and intelligible voice in both the English and French languages; and on the day of such adjourned sale it shall be lawful for the Secretary-Treasurer, or other proper Officer, once more to put up such lot of land to auction, and to sell the same or any additional portion thereof, unless the first purchaser shall have paid in the meantime the full amount of all rates and charges due thereon.

XXIV. And be it enacted, That on payment by any purchaser under this Act of the sum declared to be demanded in respect of any lot or parcel of land so sold as aforesaid, the Secretary-Treasurer shall give him a Certificate under his hand specifying the particulars of such sale, and the purchaser may forthwith enter upon and take possession of such lot or parcel of land; but if within twelve calendar months from the time of such sale the proprietor of the lot, or any one on his behalf, shall pay to the Secretary-Treasurer the amount levied, together with twenty per centum in addition to the same, then he shall be entitled to receive possession of the lot or parcel of land so sold, and the Secretary-Treasurer shall on demand pay to the purchaser thereof, his heirs, assigns or

representatives, the full amount received by him from the original proprietor, and the right acquired by such purchaser shall thenceforth wholly cease and determine.

XXV. And be it enacted, That if, at the expiration of twelve calendar months from the time of such adjudication, the land so adjudged shall not be redeemed as aforesaid, then the Secretary-Treasurer for the time being shall, on demand by the purchaser, his heirs, assigns or representatives, and on receiving from him or them the arrears of any other rates which may have become due thereon in the mean time, if not previously paid, execute a deed of sale in due form of law, to such purchaser, his heirs or legal representatives; and such deed of sale shall be a legal title, and shall confer on such purchaser, his heirs or legal representatives, the same rights in regard to such lot or parcel of land as a title ratified and confirmed by a Court of Law.

XXVI. And be it enacted, That for the collection of all such rates, the Secretary-Treasurer shall be held and considered to be the owner and occupant of all lands upon which such rates shall be due, from the time when the same shall be advertised for sale until such rates shall be paid by the original proprietor, or until such lands or a portion thereof shall be sold for the payment of such rates, in the manner hereinbefore provided.

XXVII. And be it enacted, That the fifty-second and the fifty-third Sections of the said Act hereinbefore recited, shall be and are hereby repealed.

XXVIII. And be it enacted, That all parties who before the passing of the Act first above cited, were bound by any *Procès Verbal* or By-law to perform labour on any Public Road, Bridge or Water Course out of their respective Municipalities, shall be and continue to be bound to perform such labour according to the terms of such *Procès Verbal* or By-law, and to keep up, maintain, repair and construct anew such Public Road, Bridge or Water Course in such manner, and during such time, (or for ever, as the case may be,) as is directed in such *Procès Verbal* or By-law; and that for this purpose, the Council of the Municipality wherein the Public Road, Bridge or water Course on which such non-resident parties may be obliged by such *Procès Verbal* or By-law to perform labour, may be situate, shall have jurisdiction over such non-resident parties, and is hereby authorized to oblige them by all lawful means to perform their respective portions of labour, as if they were resident inhabitants of such Municipality; and for the purposes aforesaid, all such *Procès Verbaux* and By-laws as aforesaid, which under the provisions of the said fifty-second and fifty-third Sections had ceased to be in force, shall be and are hereby revived and shall continue in force until it be otherwise ordered by competent authority: Provided always, that the Council of any Municipality may make a Turnpike or Toll-road, or a Toll bridge of any Road or Bridge which would otherwise be made or kept in repair under any Prods Verbal, By-law or Law, by the inhabitants of some other Municipality; and that any Road or Bridge which before the passing of this Act, shall have been so made a Turnpike or Toll-road or Toll-bridge, shall remain such according to the provisions of the By-law in that behalf, notwithstanding the repeal of the sections aforesaid: Provided always, that nothing in this Section contained shall be construed to affect the Counties of St. Hyacinthe and Huntingdon.

XXIX. And whereas accidents frequently occur on the roads leading from the main road to Bridges and Ferries, in consequence of the bad state in which such thoroughfares are kept: Be it enacted, That all proprietors or possessors of Bridges or Ferries shall be bound to keep in repair, and maintain all roads leading from the main roads to any such bridge or ferry, and which it shall be necessary to use in order to reach any such bridge or ferry; Provided always, that the most direct road leading from any such road to any city or market-town, and used as a post road or otherwise, shall be kept in repair and maintained by such parties resident within the Municipality within which the same shall be situate, as the Municipal Council of such Municipality shall deem proper to order.

XXX. And be it enacted, That it shall be lawful for the Overseers in each Parish or Township, or the majority of them, at their annual meeting for determining upon and fixing the winter roads, to order the fences to be taken down along the by-roads where it may be necessary, for the said winter roads, and to cause them to be put up again as soon as possible after the winter season, in as good a state as they were previous to their being taken down; and such fences shall be taken down and put up again by the parties interested in the said Roads; Provided always, that it shall not be lawful for the said Overseers, or the majority of them, to cause to be taken down any palisade, whether made with rails or of stone, nor any quickset hedge.

XXXI. And be it enacted, That licenses to ferry over any river or lake not being within the limits of any Municipality shall be granted by the Governor of this Province for the time being; and the Justices of the Peace, in General or Quarter Sessions, shall alone have power to grant Certificates and to make regulations relative to such ferries.

XXXII. And whereas doubts have arisen as to certain By-laws of the former Parish or Township Councils: Be it declared and enacted that all By-laws made by the said Parish or Township Councils, or by any Committee of any Parish or Township Council, which shall not have been repealed nor amended by the Councils of Counties or of Divisions of Counties, have and shall have full force and effect and continue to have full force and effect until the same shall be repealed or amended by competent authority: Provided always, that nothing herein contained shall be construed in such manner as to give force and effect to any By-law which may have been informally or illegally made, passed or enacted by any such Council.

XXXIII. And be it enacted, That all penalties imposed by this Act, shall be recovered in the manner provided by the Act first above recited.

XXXIV. And be it enacted, That for all and every the purposes of the said first recited Act and of this Act, the County of Megantic shall be divided into two Municipalities, subject to all the provisions of law in that behalf; and that to this end, it shall be lawful for the Governor in Council, in and by a Proclamation to be issued after the passing of this Act, to declare that the said Municipality of the said County of Megantic shall be dissolved from and after a day to be therein named, and the said Municipality, from and after such day, shall be dissolved and annulled: And it shall be lawful further for the Governor in Council, in the said Proclamation, to define the limits of the new Municipal Divisions of the said County of Megantic,—to designate the several Townships

which shall form part thereof respectively, and the number to be assigned to each such Municipal Division,—to determine the places where the Municipal Councils of the said Municipalities respectively shall hold their meetings, and the days for the first election of Councillors,—and to confirm or annul any By-law or By-laws now in force in the said Municipality of the said County of Megantic, and to make the same binding on both or either of the said two new Municipal Divisions,—and generally, in and by the said Proclamation, to make such other and further regulations and provisions as may by the Governor in Council be deemed necessary fully to carry into effect the said dissolution of the said Municipality of Megantic and the division thereof into two Municipalities as aforesaid.

XXXV. And be it enacted, That every part of any Act or law repugnant to or inconsistent with the provisions of this Act shall be and the same are hereby repealed.

XXXVI. And be it enacted, That the Interpretation Act shall apply to this Act.