

*Laws of Her Majesty's Province of United Canada*, passed in the year 1851. Quebec: Stewart Derbyshire and George Desbarts, 1852.

16 Victoria – Chapter 183

**An Act to provide for the recovery of the Rates and Taxes intended to be imposed by certain By-laws of the late District Councils of Upper Canada. Assented to 14th June, 1853.**

Whereas the District Councils of several of the late Districts of Upper Canada, intending to carry into effect the enactments of the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to provide for the better internal government of that part of this Province which formerly constituted the Province of Upper Canada, by the establishment of Local and Municipal authorities therein*, have, since the passing of the said Act, passed divers By-laws imposing rates or taxes on lands in the said Districts, and the rates or taxes so imposed, have been paid by the great majority of the inhabitants and land-holders therein; And whereas it appears that the total sum or sums to be raised under such By-laws, and the purposes to which they were to be applied, were not first determined by some of the said District Councils, and the sums afterwards apportioned and rated on the lands in the said Districts, but a certain rate or tax of so much per acre was at once imposed on such lands, and that the said By-laws, or some of them, were otherwise informal, and contained provisions not strictly in accordance with the said Act; And whereas doubts may exist as to the true meaning and intention of the forty-first Section of the said Act, and it is expedient to remove any such doubts as to the powers intended to be conferred on such District Councils of imposing rates or taxes upon lands, and to legalize such rates as, if defective in form, were not inconsistent with the true intent and spirit of the Act above recited; And whereas in several of the said Districts certain lands were sold for arrears of taxes which had accrued under the said By-laws, and it is expedient to remove any doubts which may exist as to the legality of such sales, and to confirm them with such provisions and limitations as shall secure the owners of the lands from any injustice: 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 from and after the passing of this Act, no By-law of any of the late District Councils of Upper Canada shall be quashed on account of any want of form, or on account of any of the provisions thereof not being in strict accordance with the letter of the Act hereinbefore recited, so long as such provisions are in accordance with the true intent and meaning of this Act.

II. And be it enacted and declared, That any rate or tax, or rates or taxes, intended to be imposed on the lands in any of the late Districts of Upper Canada, by any By-law or By-laws heretofore passed by the District Councils thereof, and not disallowed by the Governor, or quashed by any Court of competent jurisdiction, shall be held to be valid and justly chargeable on such lands, so long as the same did not in the whole exceed One Penny Half Penny currency, per acre, in any one year: Provided always, that no increase or accumulation of such rates, intended to

be imposed or charged by any such By-law, in consequence of the non-payment of such rates, shall be held to be valid or chargeable on the said lands: Provided also, that if any such By-law or By-laws shall have taxed the lands in any District by the acre unequally so that a different tax was intended to be levied in different Townships or localities, or a different tax upon unoccupied land from that at which land was rated on the Assessment Rolls, the whole of the land in such late District shall be held chargeable only with the lowest, tax per acre at which any of the land was so intended to be rated: Provided also, that nothing in this Act shall be held to make lawful any By-law disallowed by the Governor or quashed by any Court of competent jurisdiction as aforesaid, or the tax imposed by any By-law which rated or intended to rate unoccupied land only, and not all land.

III. And be it enacted and declared, That if the By-laws of any of the late District Councils shall have taxed or rated land by the acre at such an amount that the rate so imposed, together with the tax of one eighth of a Penny per acre, charged on unoccupied land, in lieu of Statute labour, by the Act of Upper Canada, passed in the fifty-ninth year of the Reign of King George the Third, and intituled, *An Act to repeal part of and amend the Laws now in force for laying out, amending and keeping in repair the Public Highways and Roads in this Province*, would in the whole amount to more than One Penny Half Penny per acre, the tax of one eighth of a Penny as aforesaid shall be held to have merged in the tax imposed by such By-laws, and the land shall not be held to be chargeable therewith; but if the By-laws of any of the said District Councils shall have so taxed or rated the lands, that the District tax and the one eighth of a Penny as aforesaid, together, did not exceed One Penny Half Penny per acre, and if the said By-laws did not expressly release the land from the said tax of one eighth of a Penny, but the said tax continued to be demanded and received, from the date of the passing of the said By-law, then the unoccupied land shall be held also liable to the tax of one eighth of a Penny per acre.

IV. And be it enacted and declared, That any sum or sums of money which shall have been paid to the Collector of any Township, in satisfaction of the rates charged on the Assessment Roll, or to the Treasurer of any District, or of any County since the abolition of Districts, in satisfaction of any tax upon land, shall not be recoverable, although such rate or tax may have exceeded that which might legally have been chargeable, or may have been imposed by an informal By-law of the said District Councils; and no surcharge or additional demand shall be made, if the sums so received by such Collector or Treasurer fell short of what was legally chargeable. And all land for or in respect of which any such rate or tax has been so paid, shall be released from any liability or charge for the year or years in respect of which such tax was paid; but all lands liable to assessment, and upon which payment has not been so made, shall be held chargeable with such tax, as is hereinbefore declared to be chargeable upon it, notwithstanding any informality in the By-laws by which such tax was intended to be imposed, provided that such By-laws shall not have been disallowed or quashed as aforesaid.

V. And be it enacted and declared, That the subsequent repeal of any By-law of any District Council shall not be construed to have extinguished the arrears of the taxes imposed or intended to be imposed by such By-law, and which were due for the years previous to the repeal of the By-law: Provided always, that nothing herein contained shall be construed to continue the tax for the

year in which such By-law was repealed, and another By-law passed in place thereof; but in all such cases the tax or arrear of tax shall for that year be taken to be that imposed by the repealing By-law.

VI. And be it enacted, That within six months after the passing of this Act, it shall be the duty of the Treasurer of every County in Upper Canada, and he is hereby required to make out a list of every Lot or part of Lot in his County, upon which any taxes may appear to be unpaid and in arrear, whether the said taxes accrued before or after the establishment of District Councils. And he shall set down opposite each Lot or part of Lot the total sum which shall appear to be so due and in arrear up to the first of day of January, eighteen hundred and fifty-three, including in such total sum the proportional charge for the cost of the advertisement hereinafter required, and distinguishing the taxes due before any By-law of the late District Council came into force, the taxes due under such By-law or By-laws, and the taxes due since the establishment of County Councils. And he shall calculate the amount of tax due on each Lot according to the provisions of the Act last above cited or of the Act of Upper Canada, passed in the same year of the same Reign, and intituled, *An Act to repeal the several Laws now in force relative to levying and collecting rates and assessments in this Province, and further to provide for the more equal and general assessment of lands and other rateable property throughout this Province*, and subsequent Acts of the Province of Upper Canada, amending the same, until such time as any By-law of the late District in which the land so in arrear was then included, came into force, altering the rate authorized and imposed by the said Acts; and from the time any such By-law as aforesaid came into force, and as long as it continued in force, he shall calculate the tax according to such of the provisions of this Act as define the rates and taxes which shall be chargeable upon the land in respect of the rates intended to be imposed by the By-laws of such District Councils.

VII. And be it enacted, That the Treasurer of each and every County in Upper Canada, shall cause such list of lands and arrears of taxes to be advertised for the space of one month in the Government Official Gazette, and in some one newspaper published within the County, or if none be so published, in some newspaper in an adjoining County, and no other advertisement of lands in arrears for taxes shall be required to be made, and no such arrears shall be included in the Collector's Roll, and no lands shall be sold for the non payment of such arrears during the present year; any thing in the Upper Canada Assessment Act of 1850 to the contrary notwithstanding.

VIII. And be it enacted, That in case any lands have been sold for arrears of taxes, any part of which were calculated and claimed to be due under any By-law of any of the late District Councils, which has not been quashed as aforesaid the Treasurer of the County in which such lands were situated shall within three months after the passing of this Act, prepare and advertise as aforesaid a list of all the lands so sold and not afterwards redeemed, which list shall shew the date of sale, the amount for which the land or any portion of it was sold, the amount of tax, which was justly chargeable upon the land according to the provisions of this Act, up to the date when it was advertised previous to such sale, and also all the taxes which have been paid upon the land since the date of the sale: Provided always, that if in any District no By-law was passed imposing a rate on unoccupied land, or a By-law was passed which did not vary the tax to which such land was liable under the Assessment Laws then in force in Upper Canada, it shall not be necessary to

advertise the lands sold in any such District, nor shall the lands so sold be liable to be redeemed in the manner provided by the Section of this Act next following.

IX. And be it enacted, That at any lime within one year after the date of the first publication of the advertisement required to be made by the next preceding Section, it shall and may be lawful for the owner of any Lot or parcel of land, or for any one duly authorized on his behalf, to pay to the said Treasurer the amount justly chargeable on the land, as is herein-before provided, and interest thereon from the date of such sale to the date of payment, together with all taxes which have been paid by the purchaser subsequently to the sale of such lands, which payment shall be carried by the Treasurer to the account of the County; and the said Treasurer shall thereupon, without any charge, give to the person so redeeming a Certificate, in the form prescribed in the Schedule appended to this Act, and marked A, that the land has been redeemed, which Certificate the Registrar of the County is hereby required to register, upon the payment to him of a fee of Two Shillings and Six Pence, and such Certificate, and the registry thereof shall annul and make void the Deed formerly executed by the Sheriff to the purchaser of the land for arrears of taxes, and shall re-convey the land to the former owner, and give him right to the possession thereof as fully as if no such Deed of the Sheriff had been executed: Provided always, that if there shall be any improvements upon the land, and the land shall be in the occupation or possession of any person having a *bonâ fide* title or claim thereto, either as the purchaser at the sale for taxes or by Deed, Bond, or Written Agreement to sell from the purchaser, or from any person claiming through such purchaser, the original owner, before re-entering into possession, shall pay to such occupant reasonable compensation for his improvements made at any time after the expiration of one year from the date of sale and before the passing of this Act, and such compensation shall be determined in the manner and with the forms provided in case of erroneous surveys by the forty-ninth and fiftieth Sections of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and to make better provision respecting the admission of Land Surveyors and the Survey of Lands in this Province*, unless the said original owner choose rather to tender, and do tender to the said occupant a good and valid title to the land upon condition of his paying him the actual value thereof only, to be determined as aforesaid, in which case, and in default of such occupant paying such value within six months after the determination thereof as aforesaid, the said original owner shall have an absolute and unconditional right to evict such occupant and re-enter into possession of the land; and all costs incurred under this proviso shall be paid in any case by the occupant.

X. And be it enacted, That one year after the date of the advertisement required to be made by the eighth Section of this Act, it shall be the duty of the Treasurer aforesaid to publish in the manner required for the other advertisements before mentioned, a list of all lands previously sold for taxes and conveyed by the Sheriff, but which have been redeemed in the manner provided by the ninth Section; And the said Treasurer shall at any time after the redemption of the land, upon the demand of the purchaser, and the surrender by him of the Sheriff's Deed, pay out of any County money in his hands the sum for which the land was sold by the Sheriff, and the cost of the Sheriff's Deed and registry thereof, together with the interest upon the whole of such sums from the date of the sale to the date of redemption and the amount of all taxes which have been paid by the purchaser subsequently to the sale of such lands; and if the Treasurer shall refuse or neglect

to pay the same, such total sum and interest shall become a debt due by the County Council of such County, and shall be recoverable in the manner provided by law for the recovery of other debts. And the Treasurer shall cancel the Deed so surrendered to him, by writing across the face of it a Certificate in the form prescribed in the Schedule appended to this Act, marked B, and he shall deliver the Deed so cancelled to the Registrar of the County in which the land is situate, who is hereby required without any charge to file it with the Certificate of the redemption of the same land.

XI. And be it enacted, That if any land sold for arrears of taxes as aforesaid shall not have been redeemed in the manner and within the period allowed and provided by this Act, such sales shall be confirmed and held valid as fully as if they had been made under the authority of the Assessment laws in force in Upper Canada, previous to the passing of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to repeal the Acts in force in Upper Canada, relative to the establishment of Local and Municipal Authorities, and other matters of a like nature*, and the arrears on account of which the sales took place, had not comprised any taxes imposed or intended to be imposed by any By-law of the late District Councils: Provided that at the time of such sale the taxes (whether imposed by such By-law or by the said Assessment Laws of Upper Canada, or by both) were in arrear to the extent required by the said Assessment Laws in order to justify the sale of the lands, and that all the requirements of the said Assessment Laws relative to such sales were complied with: Provided also that nothing herein contained shall be held to make valid the title to any lands which shall have been adjudged to be invalid by any Court of competent jurisdiction or in any way to make void any judgment in any of the Superior Courts of Upper Canada, or to affect any suit pending therein in which the validity of any such By-law may have been called in question.

XII. And be it enacted, That whenever the words "owner," "purchaser" and "occupant" occur in this Act, or the words "he" or "his," or other words designating the owner, purchaser or occupant, such words shall be construed to mean such persons or their heirs, executors or assigns, and to include the singular or plural, masculine or feminine, as the case may be; and the word "County" shall be construed to include Unions of Counties.

#### Schedule A.

I, \_\_\_\_\_ Treasurer of the County (or United Counties) of \_\_\_\_\_ do hereby certify, that I have received from \_\_\_\_\_ the sum of \_\_\_\_\_ being the whole amount payable according to the provisions of an Act of the Province of Canada, passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to provide for the recovery of the rates and taxes intended to be imposed by certain By-laws of the late District Councils of Upper Canada*, and chaptered \_\_\_\_\_ in redemption of lot (or part of lot, describing it, or \_\_\_\_\_ acres of lot, as the case may be,) number \_\_\_\_\_ in the \_\_\_\_\_ Concession of the Township of \_\_\_\_\_, which was sold by the Sheriff of the District of \_\_\_\_\_ {or County of \_\_\_\_\_} for arrears of taxes on the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_

Dated \_\_\_\_\_

(Signed.)

Schedule B.

This Deed is cancelled by me \_\_\_\_\_ County (or United Counties) of \_\_\_\_\_, therein  
having been redeemed on the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_

Dated \_\_\_\_\_

(Signed.)