

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

16 Victoria – Chapter 211

An Act to remove doubts with respect to the proper Courts of Review for Appeals from By-laws of the Municipal Councils, and to amend the Municipal Laws of Lower Canada. Assented to 14th June, 1853.

Whereas doubts have arisen with respect to the true meaning of that portion of the seventh section of the Act of the Parliament of this Province, passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada*, by which it is enacted, that all appeals from any inferior Court or jurisdiction which immediately before the time that the said Act should come into force, should lie to any one of the several Courts of Queen's Bench, should thereafter lie to the Superior Court established by the said Act, in so far as the same relates to appeals from By-laws passed by Councils of Municipalities situate within the local jurisdiction of the said Courts of Queen's Bench, in the Inferior Terms thereof respectively, which said Inferior Terms were abolished by the said Act, and to which said Inferior Terms, such appeals lay at the time that the said Act came into force; And whereas the Circuit Court established under the provisions of the said Act, in the room and place of the said Inferior Terms, has been since the said Act came into force, and still is the proper Court of Review for hearing and determining all appeals from such By-laws of the said Councils of Municipalities in which such Circuit Court sits, in the said manner and with the same powers as were, at the time that the said Act came into force, possessed and exercised by the said Inferior Terms, and in the same manner and with the same powers as the Circuit Court sitting at other places in Lower Canada since the said Act came into force, has exercised the powers of a Court of Review within its jurisdiction, when sitting at such places respectively in relation to such appeals: And whereas it is expedient to remove such doubts: 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 Circuit Court for Lower Canada, established under the provisions of the Act hereinbefore first cited, when sitting at places where it is substituted in the place and stead of the several Courts of Queen's Bench in the several Districts of Lower Canada, in the Inferior Terms of the said Courts respectively in the said Act mentioned, has always been, since the said Act hereinbefore first cited came into force, and now is the proper Court of Review for the hearing and determining of appeals from By-laws of the Councils of Municipalities in which such Circuit Court holds its sittings, or which are comprised within the Circuits for which such sittings are respectively held, in as full and ample a manner, and with the same powers and under the same provisions as the Circuit Court for Lower Canada sitting at other places hears and determines as a Court of Review, such appeals within its jurisdiction.

II. And whereas injustice would arise unless provision were made to preserve the rights of parties who, under the true intent and meaning of the said Act hereinbefore first cited, presented within the delay required by law, their petitions to the Circuit Court established as aforesaid in the room and place of the said several Courts of Queen's Bench, in the Inferior Terms thereof respectively, appealing from any By-law of the Councils of Municipalities which, since the Act hereinbefore first cited came into force, became and are situate within the local jurisdiction of such last mentioned Circuit Court: Be it therefore enacted, That it shall be lawful and competent for any person interested in the matter of any By-law passed subsequently to the first day of December, one thousand eight hundred and fifty-one, by any Council of a Municipality situate within the local jurisdiction of the Circuit Court as in established as aforesaid in the room and place of the said Courts of Queen's Bench in the Inferior Terms thereof respectively, and deeming himself aggrieved thereby, to appeal therefrom, within fifteen days after the passing of this Act, to the Circuit Court sitting in the Circuit within which such Municipality is situate by reason of the said Inferior Terms having been so as aforesaid abolished, notice of which appeal shall be given to the said Council of such Municipality within the said fifteen days; and if there should be no sitting of the Circuit Court held in such Circuit within the said delay of fifteen days, then such appeal may be lodged in the Office of the Clerk of the Court for such Circuit within the said delay, and may be presented to the Court on the first day that such Court shall sit in such Circuit after the expiration of the said delay, and proceedings shall be had thereon to trial and judgment as to law and justice appertain: Provided, however, that- the provisions of this section shall extend only to any person who being interested in the matter of such By-law, and deeming himself aggrieved thereby, may have tiled in the Circuit Court before the passing of this Act, and within the delay by law allowed, a petition in appeal from such By-law so passed subsequently to the said first day of December, one thousand eight hundred and fifty-one: And the provisions of this section shall extend to any such person who shall have so appealed, notwithstanding any judgment rendered on any such petition on the ground of want of jurisdiction in such Circuit Court; but not when judgment shall have been rendered on any other ground.

III. And whereas by reason of the doubts which have so arisen as aforesaid, it is just to provide for cases now pending in the Superior Court on appeals from any such By-laws; Be it therefore enacted, That in so far as regards all cases now pending and undetermined in the Superior Court on appeals from any such By-laws, such other and further proceedings shall be had therein to trial and judgment in such Superior Court as though the same had been instituted in, and were now legally pending before any Circuit Court.

IV. Provided always, and be it enacted, That nothing in this Act contained shall extend to allow an appeal from any By-law of any such Council of a Municipality other than from a By-law of any such Council, from which an appeal could be made previous to the passing of this Act.

V. And whereas by flic seventeenth Section of the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act further to amend the Municipal Laws of Lower Canada*, it is enacted, That if any Council deem it necessary to cause a front road to be made on any property through which a front road already passes, such second front road shall not be made at a distance less than one mile from that already existing, except

with the consent of the owner of such property, and unless the costs of opening and keeping up such front road be defrayed by the parties requiring such road; And whereas the increase of population and the necessities of certain localities require certain alterations in the provisions of the said Section; Be it therefore enacted, that the said Section shall be and is repealed, and that any Municipal Council may, on the requisition of the majority of the parties interested, order any front road to be opened or its position to be changed, as may be just and necessary for the benefit of all parties concerned.

VI. And be it enacted, That this Act shall extend to Lower Canada only.