

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

16 Victoria – Chapter 22

An Act to establish a Consolidated Municipal Loan Fund for Upper Canada. 10th November, 1852.

Whereas it would greatly facilitate the borrowing, upon advantageous terms, of such sums as may be required by any County, City, Town, Township or Village Municipality in Upper Canada, for effecting or aiding in effecting important Works calculated to benefit such County, City, Town, Township or Village, that such sums should be raised by Debentures issued upon the credit of a Consolidated Municipal Loan Fund under the management of the Provincial Government, instead of being raised upon the separate credit of each individual Municipality: 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 there shall be a Consolidated Municipal Loan Fund of Upper Canada, to consist of all moneys which under this Act or any other Act shall be directed to form part of the said Fund; and such Fund shall be managed by the Receiver General, under the direction of the Governor of this Province in Council, and the Books and Accounts thereof shall be kept in his Office.

II. And be it enacted, That it shall be lawful for the Corporation of any County, City, Incorporated Town, Township or Village, by By-law to authorize any sum of money to be raised on the credit of the said Consolidated Municipal Loan Fund, and to appropriate such sum or so much thereof as may be found requisite, to defray the expense of building or improving any Gaol or Court House for the use of such Municipality, or for acquiring, making, constructing or completing, or assisting in the making, construction or completion of any Rail-road, Canal or Harbour, or for the improvement of any navigable river, within or without the Municipality, but the acquisition, making or construction whereof will benefit the inhabitants of such County, City, Town, Township or Village, and by such By-law to declare the purposes to which the sum so to be raised shall be applied, and to make such other provisions as may be requisite for ensuring the due application of such money, and the attainment of the objects contemplated by such By-law; and that it shall be lawful for the Corporation of any City or County by By-law to authorize any sum of money to be raised on the credit of the Consolidated Municipal Loan Fund, and to appropriate such sum or so much thereof as may be found necessary, to defray the cost of making or improving any Bridge, Macadamized, Gravel, or Planked Road, within or without the Municipality, but the making or improving whereof will benefit the inhabitants of such County or City, and by such By-law to declare the purposes to which the sum so to be raised shall be applied, and to make such other provisions as may be requisite for ensuring the due application of such money, and the attainment of the objects contemplated by such By-law.

1. By any such By-law it may be provided that the assistance of the Municipality shall be granted towards making, constructing, or completing any such Rail-road, Bridge, Macadamized, Gravel or Planked Road, Canal or Harbour, or towards the improvement of any navigable river, either by subscribing on behalf of the Municipality for Stock in any Company incorporated for making, constructing or completing the same, or by loaning money to such Company, or to any Board of Commissioners incorporated for any of the above purposes, in which case the security to be taken from the Company or Board of Commissioners, and the other terms of the loan shall be mentioned in the By-law.
2. The By-law shall recite that the loan is to be raised under the provisions of this Act, and shall express the term for which the loan is required, which shall not in any case exceed thirty years, nor be less than five years.
3. If the By-law be passed by a County Council, the principal and interest of the loan shall be payable by all the Townships, Towns and Villages in the County, and the County Treasurer shall in each year apportion the amount to be paid by each, according to the amount of property returned upon the Assessment Rolls of such Townships, Towns and Villages respectively, for the financial year next preceding that for which the apportionment is to be made.
4. Such By-law, or every material, provision thereof, shall be published for the information of the Rate-payers, for at least one month before the final passing thereof, in some newspaper published weekly or oftener, within the territorial jurisdiction of the Municipality, or if there be no such newspaper published within such jurisdiction, then in some newspaper published in the place nearest to such jurisdiction, and also by posting the same up in at least four public places in the Municipality, (and if it be a By-law of a County Council then in each Municipality in such County) with a notice, signed by the Clerk of the Municipality in the Council of which the By-law originated, signifying that it is a true copy of a By-law which will be taken into consideration by the Council of the Municipality after the expiration of one month from the first publication thereof in such newspaper, (the date of which first publication shall be mentioned in such notice,) and that on some day and at some hour and place, (or if the Meeting be for a County By-law, places,) named in the notice, and which shall have been previously fixed by the said Council, such day not being less than three weeks, nor more than four weeks after such first publication, a General Meeting of the qualified Municipal Electors of the Municipality, (or of the several Municipalities within the County,) will be held for the purpose of considering such By-law, and approving or disapproving the same.
5. On the day and at the hour and place (or places) appointed by such notice as aforesaid, the qualified Municipal Electors, or such of them as choose to attend the Meeting, shall take the said By-law into consideration, and shall approve or disapprove the same; and at such Meeting the Mayor or Reeve of the Municipality in which it is held shall preside, or in his absence some other Member of the Council of such Municipality to be chosen by the Meeting, and the Clerk of such Municipality shall act as Secretary; and it shall be the duty of the said Clerk to have with him the Assessment Rolls of the Municipality then in force, or certified copies thereof: The only question to be determined at such Meeting, shall be whether the majority of the Municipal Electors present

thereat, do or do not approve of the said By-law; and when the question has been put, the person presiding shall declare whether in his opinion the majority is for the approval or disapproval of the By-law, and his decision if not forthwith appealed from, shall be final, and it shall forthwith be communicated to the Council of the Municipality which originated the By-law, by a certificate under the hand of the Secretary of the Meeting.

6. Any six duly qualified Municipal Electors present at any such Meeting may appeal from the decision of the person presiding, and demand a Poll, and such Poll shall be granted by the person presiding at the Meeting, and shall be immediately taken by him, the Clerk of the Municipality acting as Poll Clerk: each Elector shall then present himself in turn to the person presiding, and shall give his vote "yea" or "nay," — the word "yea" meaning that he approves the proposed By-law, and the word "nay" that he disapproves the same: — but no person's vote shall be received unless he appears by the Assessment Rolls to be a duly qualified Municipal Elector.

7. The person presiding may, if necessary, adjourn the Poll at sunset on the day of meeting, until ten o'clock in the forenoon of the following day, not being a Sunday or statutory holiday, when the Poll shall be continued as on the first day, but shall be closed at sunset of such second day; — it shall be closed at any time on the first or second day if one half hour shall elapse without a vote being offered.

8. At the close of the Poll the person presiding shall count the "yeas" and the "nays," and ascertain and certify for the information of the Council which originated the By-Law, whether the majority is for the approval or the disapproval of the said By-law; and such certificate shall be countersigned by the Clerk of the Municipality acting as Secretary of the Meeting and kept by him, with the Poll List, among the records of his office, and a duplicate thereof transmitted to the County Clerk if the By-Law originated with a County Council.

9. If the By-law to be considered be a By-law of a County Council, the meeting to consider the same, or the poll of the electors, shall not be held for the whole County at one place, but such meeting or poll shall be held in each of the several Municipalities of such County respectively; and the question whether the By-law shall be approved or disapproved, either by the majority of the total number of electors voting "yea" or "nay," in the whole County, or by the majority of votes of Municipalities approving or disapproving of the same, giving to each Municipality one or two votes, according as it is by Law authorized to return a Reeve or a Reeve and Deputy Reeve to the County Council of such County, in which case each Municipality shall be held to have voted for the approval of the By-Law, if the Majority of Electors voting at the Meeting held therein shall have voted "yea," and to have voted for the disapproval thereof if the Majority of such Electors shall have voted "nay;" and each such County Council shall make a By-law to provide which of the two modes of decision shall be adopted, and shall also thereby declare the manner in which the decision of each Municipality, or of the electors thereof, shall be made known to the County Clerk.

10. If such By-law be disapproved by the majority of the Electors (or of the Municipalities) as aforesaid, the Council shall not proceed to pass the same, but if it be approved by such majority, and afterwards passed by the Council, then such By-law, and all the provisions thereof shall be

subject to the approval of the Governor in Council, and shall have no force until such approval shall have been given; but shall not be subject to the special provisions made by the Upper Canada Municipal Corporations Act of one thousand eight hundred and forty-nine, or by any Act amending the same, concerning By-laws creating debts, or to any provisions or formalities, except those prescribed by the said Acts with regard to Bylaws generally, and those prescribed by this Act; and every such By-law, when submitted to the Governor in Council for his approval, shall contain a recital that it has been approved by a majority of the duly qualified Municipal Electors (or of the Municipalities) of (or in) the Municipality, at a meeting (or meetings) called and held in conformity to the requirements of this Act, and such recital shall for all the purposes of this Act be conclusive proof of the facts therein stated, nor shall any such By-law, or any thing done under it, be invalidated by any error of fact or incorrectness in such recital; but this provision shall not affect the responsibility of those who may have wilfully concurred in any mis-statement of fact in such recital.

11. Before such By-law shall be approved by the Governor in Council, proof shall be made to his satisfaction, that the By-law was published and notice given as hereinbefore required, and he shall be furnished with a statement certified under oath by the Treasurer of the Municipality, shewing the amount of taxable property therein according to the then last Assessment Roll or Rolls, and a true account of all the debts and liabilities of the Municipality and of its expenditure for every purpose, for the then last year.

III. And be it enacted, That it shall be lawful for the Governor in Council to require from the Municipality by the Council whereof any such By-law shall have been passed, all such documents and information as he may think necessary for ascertaining the expediency or in expediency of such By-law, or any of the provisions thereof, and the same shall be furnished accordingly by the proper Officers of such Municipality, and no such By-law shall be repealed, amended or altered, otherwise than by another By-law approved in like manner by the Governor in Council, and to which all the provisions of this Act shall apply, as to the original By-law.

1. So soon as the By-law shall have been approved as aforesaid, it shall be lawful for the Receiver General to raise by loan, by Debentures issued by him upon the credit of the said Consolidated Municipal Loan Fund, a sum of money not exceeding that authorized by such By-law, and to pay over such sum to the Treasurer of the Municipality, or to deliver to him, or to his order, Debentures secured upon the said Fund to a like amount, or to pay part of such sum in money to the Treasurer, and to deliver to him Debentures for part; and in any case, he shall enter the amount for which Debentures are issued and delivered, to the Debit of the Municipality as so much due by it to the said Fund:

2. The principal and interest of the Debentures so issued may be made payable at any place within or without this Province in currency or in sterling money or in the currency of the place where they shall be made payable; and such Debentures shall be in such form as the Governor in Council shall direct, subject to the following provisions;

3. They shall express upon their face that the Provincial Government undertakes to pay the principal sum mentioned in them and the interest thereon, out of the monies forming part of the said Consolidated Municipal Loan Fund, and out of no other monies or funds whatsoever:
4. The principal shall be made payable at the time provided by the By-law, and the Debentures shall contain no provisions inconsistent with the By-law by which the loan is authorized, and they shall contain all such provisions as may be necessary to carry out the intentions of such By-law:
5. The rate of interest upon them shall in no case exceed six per centum per annum, and such interest shall be made payable half yearly on such days in each year as shall be therein appointed for the purpose; but if any Debenture be issued within the three months next before any such day, then the first interest thereon may be made payable on that one of the half yearly days which shall come next after the expiration of three months from the date of its issue:
6. They shall be for even sums of money, and no Debenture shall be for a less sum than twenty-five pounds, or the equivalent thereof.
7. They shall contain such conditions as the Governor shall from time to time, by order in Council, direct to be inserted therein, as to the right of the Receiver General to call such Debentures or any of them in for payment before the time therein absolutely appointed for the payment of the principal, — the manner in which they shall be so called in, — and in which it shall be determined which of such Debentures shall be so called in at any time, if they be not all called in at the same time; and no interest shall be payable upon any Debenture which shall have been called in according to such conditions as aforesaid, for any period after the day on which it shall have been required to be presented for payment, which day shall always be one of those on which interest is payable on such Debentures; and this forfeiture of interest in the case last mentioned shall be expressed on the face of the Debenture.
8. It shall not be necessary that any Debenture should show upon what By-law or with reference to what Municipality it was issued, but each Debenture shall be distinguished by a number by which it shall be known and referred to.
9. The Governor in Council may direct that any such Debentures may on the application of the holders thereof be exchanged for another or others, for the same amount, of principal, payable absolutely at the same or any later date, and bearing the same or any less rate of interest.
10. The said Debentures shall be held to be Debentures issued by the Government of this Province through the Receiver General thereof, within the meaning of the Act to establish freedom of Banking, or any Act amending the same, and of the Act to exempt the several chartered Banks from the tax on their circulation on certain conditions, and shall be available accordingly for all the purposes of the said Acts or either of them, and any monies which are by law directed to be invested by or under the directions of the Governor in Council, may be invested in such Debentures.

IV. And be it enacted, That it shall be lawful for the Governor in Council from time to time, and when it shall be necessary to enable the said Consolidated Municipal Loan Fund, to meet the charges upon it, to direct the Receiver General to advance to the said Fund, out of any unappropriated monies forming part of the Fund arising out of monies levied or to be levied under the authority of the Act passed in the session held in the 13th and 14th years of Her Majesty's Reign, and intituled, *An Act to provide funds for defraying the cost of the erection of the Lunatic Asylum and other Public Buildings in Upper Canada*, and known as the Upper Canada Building Fund, such sum as may be deemed expedient, and in like manner to direct the repayment of such sum from the said Consolidated Municipal Loan Fund to the said Upper Canada Building Fund.

V. And be it enacted, That the Receiver General and the Treasurer of the Municipality, shall respectively keep a correct account between the Municipality and the said Consolidated Municipal Loan Fund, debiting the Municipality with the principal of each Debenture issued for its purposes, and with the interest thereon as the same becomes due, and any other expenses or liabilities incurred by reason of such Debentures, and crediting it by the sums paid over to the Receiver General to meet such principal and interest, by the proportionate share of the Municipality in the proceeds of any monies forming part of the Sinking Fund hereafter mentioned and invested by the Receiver General, and by any other sums received by him on account of the Municipality; and it shall be the duty of the Receiver General, three months before each day in each year in which interest or principal will be payable on the Debentures, issued for the purposes of any Municipality, to notify to the Treasurer thereof, by letter sent by Post, the sum which he will, under the provisions of this Act, be required to pay over to the Receiver General by reason of such Debentures, which sum it shall be the duty of such Treasurer to pay over accordingly; but the failure on the part of the Receiver General to give such notice shall not affect the obligation of the Treasurer or of the Municipality, to pay over such sum at the time when it ought to be so paid over.

1. The sum to be so paid at any time by the Treasurer for his Municipality shall be at the rate of eight per centum per annum on the amount of the Debentures issued for the Loan in respect of which the payment is made, for the period on which the payment shall relate, and such further sum as maybe payable on the day in question for or on account of the principal of such Debentures, less such sum applicable to the payment of such principal as may then stand at the credit of the Municipality in account with the said Fund: and such payments shall continue to be made until all such Debentures shall be paid off in principal and interest, or until there be a sufficient sum at the credit of the Municipality to pay off the same.

2. If the Treasurer shall have any of such Debentures in his hands as the property of his Municipality, then the proper Coupons for interest on such Debentures may be taken from him by the Receiver General as money.

3. The difference between the said rate of eight per cent and the actual interest payable on the Debentures, and all other monies which shall come into the hands of the Receiver General as part of the said Fund, and shall not be required to pay the interest of Debentures chargeable upon it, shall form a Sinking Fund, and shall be from time to time invested by the Receiver General under

the direction of the Governor in Council, and the amount thereof shall, with the proceeds of such investment (which shall also form part of the said Sinking Fund) be applied under such direction as aforesaid, to the redemption of Debentures issued on the credit of the said Municipal Loan Fund; and each Municipality shall be credited with a share of the said Sinking Fund equal to the amount of the sums it shall have paid into the same, and with a share of the proceeds of any part of the said Fund invested by the Receiver General proportionate to the sums it shall have paid into the same and the time during which such sums shall have remained in the said Sinking Fund, and such share shall be accordingly applied to the redemption of the Debentures issued for the purposes of such Municipality: and each Municipality shall be debited with all sums paid out of the said Sinking Fund on its account.

4. It shall be lawful for the Receiver General to pay the interest on any Debenture out of the said Sinking Fund, if in any case the other monies at his disposal for the purpose shall be insufficient, repaying the amount so paid with interest, to the said Sinking Fund, out of the monies which would otherwise be applicable to the payment of such interest so soon as the same shall come into his hands.

5. It shall be lawful for the Receiver General from time to time to sell, pledge or otherwise dispose of any securities in which any part of the Sinking Fund may have been invested in case it shall be necessary so to do in order to enable him to pay any sum which is hereby made payable out of the said Sinking Fund.

VI. And be it enacted, That whenever a By-law authorizing the raising of money by loan, under this Act, shall have been passed by the Council of any Municipality, and approved by the Governor in Council, the Treasurer of such Municipality shall *ipso facto*, and without requiring any other authority or direction whatever, have full power, and it shall be his duty, before the making out of the ordinary Collectors' Rolls in each year, if the By-law shall then be in force, and if not, then at least three months before the earliest day on which interest can be payable on any Debenture issued under such By-law, to ascertain the highest sum which can be required during the year, to pay the interest (and the principal if any be payable,) on or of Debentures issued or to be issued under such By-law, and to add five per centum thereunto for losses and expenses, and to certify the amount in a notice to the Clerk of the Municipality, or if such Municipality be a County, then to certify to the Clerk of each Township or Incorporated Town or Village therein, the portion payable by the same; and it shall be the duty of such Clerk to assess the amount so certified equally upon all the taxable property in his Municipality, and to set down on the ordinary Collectors' Roll for the year, if it shall not have been previously delivered to the Collectors, the amount with which each party or lot is chargeable, under the head of "Loan Rate for _____ (naming the purpose)" or "County Loan Rate for {naming the purpose,}" as the case may be; and if such amount shall be so certified to any such Clerk after the time in any year when the Collectors' Rolls shall have been delivered to the Collectors, then such Clerk shall forthwith make out a special Collectors' Roll for the purpose in the form prescribed for ordinary Collectors' Rolls, so far as such form may be applicable, and shall deliver the same to the Collector: Provided always, that if there be in the hands of the Treasurer at the time of his giving such notice as aforesaid to the Clerk of the Municipality, any monies applicable to the payment of the principal or interest of the Debentures

to which such notice refers, then the Treasurer may deduct such sum from that to which the notice refers before adding the five per cent thereto; And provided also, that if the purpose for which the loan is raised be such as to produce profit or to yield returns in money to the Municipality, or if the money be loaned by it so as to produce interest, or if the capital be reimbursable to the Municipality, then it shall be lawful for the Treasurer and the Mayor, or Head of such Municipality to enter upon the Books of the Corporation, a Certificate signed by them in the form of the Schedule A. setting forth that there ought to be paid to the Municipality during the course of the year, such dividends or profits (describing them) or such interest of sums of money (mentioning the amount) or both (as the case may be), and that the said Treasurer and Mayor have reason to believe and do believe that the sums which will, from the said sources, come into the hands of the Treasurer during the year, will amount to the sum of (naming it) and the Treasurer may then deduct the sum mentioned in such Certificate from that to which the notice refers, before adding the five per cent as aforesaid, or if the sum mentioned in the Certificate be as great or greater than that to which the notice would refer, then no notice shall at that time be given to the Clerk or Clerks of the Municipality or Municipalities concerned.

1. If the nett sum raised by any such rate as last aforesaid be greater than that required to enable the Treasurer to pay the Receiver General, the surplus shall remain in the hands of the Treasurer and be applicable to payments to be made to the Receiver General for the next ensuing year, on account of the same loan; and if the nett sum raised be insufficient to enable the Treasurer to pay the required sum to the Receiver General, then a new assessment shall be made as hereinafter provided in cases of deficiency.

2. All sums of money coming to the Municipality as the said profits, dividends or returns from any work for which the loan shall have been authorized, or as interest or principal of any sum lent by the Municipality out of such loan, or otherwise howsoever by reason of such loan, shall be paid into the hands of the Treasurer and by him carefully kept apart from all other monies, and paid over from time to time to the Receiver General, to be by him placed to the credit of the Municipality with the said Consolidated Municipal Loan Fund, except in so far as it shall be otherwise especially provided in the By-law authorizing such loan.

3. If it shall happen that the sum which ought under this Act to be paid over at any time by the Treasurer of any Municipality to the Receiver General, or any part of such sum, shall not be so paid over, and the Treasurer shall not have money in his hands applicable to the same, or if it shall happen that the Treasurer shall foresee that he will not have the means of paying over such sum or part thereof to the Receiver General, at the time when it ought to be so paid over, then in either case it shall be the duty of such Treasurer forthwith to add five per centum to the sum wanting for such purpose, and to certify the same to the Clerk of his Municipality, or if such Municipality be a County, then to certify to the Clerk of each Township or Incorporated Town or Village therein, the amount payable by the same, and it shall be the duty of each Clerk receiving such notice forthwith to make out a Special Collectors' Roll for the amount so certified to him, and to deliver the same to the Collectors.

4. If any sum payable as aforesaid at any time by any Treasurer to the Receiver General, be not so paid at such time, interest shall by the Receiver General be charged on such sum for the time it shall remain unpaid, against the Municipality in account with the said Consolidated Municipal Loan Fund, and deducted from the share of such Municipality in the Sinking Fund.

5. The sums entered in any Collectors' Roll by any Clerk of a Municipality shall be collected and levied, and payment thereof secured and enforced in like manner and under the same provisions as other Municipal taxes, but the nett proceeds thereof shall be applied by the Treasurer solely to the purpose for which they are directed to be raised.

VII. And be it enacted, That if any sum of money which ought under this Act to be paid by the Treasurer of any Municipality to the Receiver General, shall remain unpaid during three months or upwards after it ought to have been so paid, then upon the certificate of the Receiver General that such sum is so due and unpaid, and since what day it has been so, it shall be lawful for the Governor to issue his Warrant to the Sheriff of the County reciting the facts, and commanding him forthwith to levy such sum by rate, with interest from the said day and all costs, and to pay over the said sum and costs to the Receiver General, and the said Sheriff shall obey the said Warrant and levy the sums therein mentioned in like manner and within the same delay as he would levy the same if it had been recovered against the Municipality under a judgment of the proper Court of law, and a Writ of Execution had issued thereupon directed to him and commanding him to levy the same by rate, and shall pay over the nett proceeds to the Receiver General; and the costs allowed to the said Sheriff for executing the said Warrant shall be the same as those to which he would be entitled for executing a Writ of Execution for a like sum.

VIII. And be it enacted, That after any Municipality shall have borrowed any money under this Act, it shall not be lawful for such Municipality to contract any further debt without the consent and approval of the Governor in Council, until all debts contracted by it under this Act shall be wholly paid off.

IX. And be it enacted, That this Act and all the provisions thereof shall extend and apply to any Loan authorized by any By-law of any Municipality, passed or to be passed before this Act shall come into force, for the purpose of aiding in the construction of any Rail-way for the making of which any Company is now incorporated, or shall be under any Act passed or to be passed during the present Session whether such assistance be given by taking Stock in such Company or by loaning money to it, and also to any Loan authorized by any By-law of any Municipality, passed or to be passed before this Act comes into force, authorizing the raising of any Loan for the purpose of erecting, repairing or improving any County building or buildings: Provided always, that such Loan shall not have been negotiated by the Municipality under such By-law.

X. And be it enacted, That the word "Treasurer," in this Act, shall include the Chamberlain of any City; the word "Mayor" shall include the Warden of any County, and the official title of any Officer shall include any person by whom his duties may be legally performed; and that this Act shall apply only to Municipalities in Upper Canada.

Schedule A.

Certification of Treasurer and Mayor, or Head of a Municipality.

Municipality of the Township of _____

We certify to all whom it may concern, That out of the Loan, raised under the By-Law, No. _____, intituled, "(Title of By-Law,)" on the credit of the Consolidated Municipal Loan Fund, there has been invested the sum of _____ in shares of the stock of the Bytown and Prescott Railroad Company (or as the case may be); that this Municipality now holds the said shares; that there ought to be paid dividends thereon during the present year, and that we have reason to believe and do believe that there will be paid into the hands of the Treasurer, as and for such dividends, before the thirty- first day of December now next, the sum of which sum, we think, ought therefore, under the provisions of the Act passed, &c., (title and date of this Act,) to be deducted from the sum which ought otherwise now to be raised on the taxable property in this Municipality in order to enable the Treasurer to meet the payments which he is to make to the Receiver General during the present year, on account of the said Loan. Witness our hands this _____ day of _____ 18____.

Signatures,

A. B., Treasurer.
C. D., Mayor.