

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

16 Victoria – Chapter 25

An Act for the relief of sufferers by the late fire at Montreal, by facilitating the negotiation of Loans to enable them to rebuild the property destroyed by the said fire. 10th November, 1852.

Whereas by the disastrous conflagration which has lately burned above one thousand houses and other buildings in the City of Montreal, a large amount of property was destroyed; And whereas the greater number of the persons who suffered upon that occasion have lost all they had, and are unable to re-build the property so destroyed without assistance; And whereas the Corporation of the said City of Montreal, has expressed its willingness to become surety to the extent of a sum not exceeding one hundred thousand pounds for such of the said persons as may borrow money for the purpose of enabling them to re-build their property so destroyed; And whereas the loans contemplated by this Act can be obtained with greater facility and on easier terms, if the payment of the sums borrowed and the interest thereon be guaranteed by the Government of this Province in the event only of the said Corporation refusing or neglecting to make good the security which may be given by the said Corporation: 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 if any person or persons, company or firm of persons, body politic or corporate, shall lend and advance to any person or persons having suffered by reason of the fire above mentioned, such sum or sums of money as may be required by such person or persons for rebuilding and erecting, upon lots of ground left vacant by the said fire, such houses or other buildings as they may require, or shall lend and advance to any person or persons having suffered by the said fire, such sum or sums of money as may be required by such person or persons to repay any sum or sums of money already borrowed for the purpose of rebuilding or erecting such houses or other buildings, and with which such person or persons shall have rebuilt or erected such houses or other buildings, upon lots of ground left vacant by such fire as aforesaid, it shall be lawful for the Corporation of the said City of Montreal, if it shall see fit, in the usual and ordinary manner in which the said Corporation becomes a party to and executes deeds or contracts, to become a party to any Obligation, Deed, *Acte*, or Instrument in writing under which any such Loan or Loans is or are to be made, granted and effected, and as such party as aforesaid to become surety, (*caution*) for any such loan or loans, made by any person or persons, company or firm of persons, body politic or corporate, to any person or persons, under the authority of this Act; and for the purposes of such suretyship to bind and oblige itself as surety (*caution*) only, for the repayment of the same, and the due payment of the interest thereon in whole or in part (as the case may be), in the event of the lenders being unable to enforce payment thereof, from the parties borrowing the same, after due diligence and the discussion of the personal and real estate of the said parties for that purpose.

II. Provided always, and be it enacted, That the loans for which the said Corporation shall become surety under the authority of this Act, shall not exceed at any time the sum of One Hundred Thousand Pounds, current money of Canada; and provided also, that no loan for which the said Corporation shall be surety under the provisions of this Act, shall in any case exceed the sum of Five Hundred Pounds current money aforesaid, for each lot of ground to be built upon, each lot of ground within the meaning of this Act not to contain less than one thousand feet in superficies; and that any sum or sums of money to be lent under the provisions of this Act, and for the repayment of which the said Corporation shall be surety shall be so lent at a rate of interest not exceeding six per centum per annum, and for a period not exceeding twenty years.

III. And be it enacted, That any person or persons, company, or firm of persons, body politic or corporate so making any loan or advance under any instrument to which the Corporation shall be a party as aforesaid, shall have a privilege for such loan, in principal, interest and costs, upon the houses or other buildings erected and built upon the lot of ground described in such instrument, which privilege shall be superior to, and have preference over any other claim, debt, mortgage or privilege whatsoever, on such houses or buildings, and that to secure such privilege it shall not be necessary to observe any of the formalities now required by law, or any other formality whatsoever; Provided always, that such privilege shall, as regards the ground itself upon which such houses or buildings may be erected, rank next after the privileges, debts, mortgages or claims already existing or which may exist upon such ground (*fonds*) at the time of making such loan; but nothing herein contained shall prevent the parties making such loan or loans from taking a hypothec as provided by law, upon the said ground (*fonds*), which hypothec, if duly registered, shall rank as aforesaid.

IV. And be it enacted, That the person or persons, company or firm of persons, bodies politic or corporate, making such loan or loans as aforesaid, shall have the right, and they are hereby required to insure, at such Insurance Office or Offices as they and the said Corporation may agree upon, or if they cannot agree, then in such Office as the Governor shall direct, and for an amount sufficient to cover such loan or loans, or the amount thereof actually owing at the time such Insurance shall be effected, and no more, the houses or other buildings which may be erected and built as aforesaid, and to continue such Insurance from year to year until the repayment of the amount lent under this Act, shall have been made, and to charge the proprietor or proprietors of such houses or other buildings, with the premium of Insurance paid for such Insurance, as aforesaid, which said premium of Insurance the person or persons for whom such Insurance shall have been effected, shall be bound to repay forthwith and upon the first demand; and the amount of such Insurance in the event of the property so insured being destroyed or injured by fire, shall be appropriated to the payment, first, of the arrears of interest, due upon the amount lent, and secondly, towards the payment of the principal so lent.

V. And be it enacted, That to the extent of the sum of one hundred thousand pounds as aforesaid, the guarantee of this Province shall be given in the manner hereinafter provided, for the due performance by the said Corporation of the City of Montreal, of the obligations it shall take upon itself by such suretyship as aforesaid, that is to say: in the event of the said party or parties lending the said money, being unable to enforce payment thereof or of the interest thereon from

the parties borrowing the same, after due diligence and discussion of the personal and real estate of the said last mentioned parties; and in the event also of the said Corporation not then paying the same on demand as aforesaid, it shall be lawful for any person or persons, company or firm of persons, body politic or corporate, having made such loan or loans as aforesaid, to apply to the Governor of this Province for payment of any sum or sums so due as aforesaid, either for principal or interest; and upon such application for payment it shall be lawful for the Governor to issue his Warrant for the amount so due, to the Receiver General of the Province, requiring him to pay the amount mentioned in the said Warrant, and to charge the same upon the unappropriated funds of the Province then in his hands.

VI. And be it enacted, That upon such sum or sums of money being paid upon such Warrant as aforesaid, the Crown shall immediately be substituted and subrogated to all the rights and actions which the parties to whom such sum or sums of money shall have been paid, might or could have exercised against the person or persons to whom the loan or loans shall have been made, or against the said Corporation of the City of Montreal, for the recovery of the sum or sums of money so lent as aforesaid, without its being necessary that any Act, Deed or Instrument whatever should be made or passed to operate such substitution or subrogation, and that the receipt in the hands of the Receiver General or other Officer shall be sufficient evidence in all Courts of Law of such payment, substitution and subrogation; provided always, that such rights or actions may be exercised either in the name of the lender or lenders of such sum or sums of money, or in the name of Her Majesty's Attorney General, either by action or information in any Court of competent jurisdiction.

VII. And be it enacted, That the said person or persons obtaining such loan or loans aforesaid, or the said Corporation of the City of Montreal, shall, forthwith after the execution of any Obligation, Deed, Acte or Instrument in Writing, under this Act, furnish an authentic copy thereof to the Receiver General aforesaid, as also an authentic copy of any other Deed, Act or Instrument affecting the original transaction in any manner whatever.

VIII. And be it enacted, That the said Corporation of the City of Montreal, shall keep a statement or account of all the loans made under this Act, shewing by whom such loans shall have been made and to whom, the period at which the same were effected, at what period the interest accrues, the arrears of such interest due upon each loan respectively, and at what period or periods the principal is made payable, a copy of which statement or account duly certified shall be furnished to the Government when and so often as the said Corporation may be required and called upon so to do; and for the purpose of enabling the said Corporation to keep such account, the party making any such loan under this Act, shall certify to the said Corporation, and whenever thereunto required by fire said Corporation, every sum of money which such party shall have received on account of the principal or interest of the sum lent and the date at which it was received.

IX. And be it enacted, That if any Sheriff shall receive a Writ of Execution, commanding him to levy any sum of money due by the said Corporation for the principal or interest of any Loan made under the authority of this Act, the Plaintiff may require, and the Court shall then order that such

execution be levied by Rate; and if such order be made, the Sheriff shall cause a copy of such Writ to be served upon the Treasurer of the said City, and if the money therein mentioned, with all the lawful interest and costs, which the Sheriff is commanded to levy, be not paid within one month from the time of such service, the Sheriff shall himself calculate, as nearly as may be, what Rate in the pound upon the assessed annual value of the property liable to assessment in the said City, will in his opinion, after making fair allowance for expenses, losses, and deficiencies in the collection of such Rate, be required to produce a nett amount equal to the sum, interest and costs he is commanded to levy, and ten per centum thereon in addition, and shall certify such Rate under his hand to the Clerk of the said City, for the information of the Council thereof, and shall attach thereto his precept commanding the said Corporation, and all officers whom it may concern, forthwith to cause the said Rate to be levied, and the proceeds thereof paid over to him; and such precept shall be deemed an order of the Court, out of which the Writ issued, and shall be obeyed by the said Corporation, and by all officers thereof, and others whom it may concern, on pain of their personal responsibility to the said Court; and the Rate mentioned in the said certificate shall be forthwith levied and paid accordingly, and in addition to any Rates lawfully imposed by any By-laws of the City Council: and it shall be the duty of the Treasurer and Clerk, and of all assessors, collectors, and other officers of the said Corporation, to produce to the Sheriff, on his demand, all assessment books, papers and documents requisite for enabling him to fix the Rate mentioned in this Section, and to give him any information or assistance which he may require for the purposes thereof, and all such officers of the Corporation shall, for all the purposes of this section, be deemed officers of the Court out of which the Writ issued, and amenable to and punishable by such Court accordingly, in case of any failure to perform any of the duties hereby assigned to them respectively; and the proceeds of the said rate shall by the Treasurer be paid over to the said Sheriff, and by him applied to the satisfaction of the debt, interest and costs he was commanded to levy, and if there be any surplus after satisfying the same, such surplus shall be paid back to the Treasurer and form part of the Funds at the disposal of the said Corporation.

X. And be it enacted, That this Act shall be a Public Act.