

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

16 Victoria – Chapter 26

**An Act to authorize the City of Montreal to raise a Loan to consolidate their debt. 10th November, 1852.**

Whereas by the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act to amend and consolidate the provisions of the Ordinance to incorporate the City and Town of Montreal, and of a certain Ordinance and certain Acts amending the same, and to vest certain other powers in the Corporation of the said City of Montreal*, it is among other things in effect enacted, That it shall be lawful for the Council of the said City of Montreal to borrow, on the credit of the said City, such sum or sums of money as the said Council may think proper so to borrow, provided the total amount borrowed and remaining unpaid, exclusive and independent of the amounts due or to become due on account of the purchase or improvement of the Montreal Water Works, shall not exceed at any one time the sum of one hundred and fifty thousand pounds currency, which debt so authorized to be contracted for general purposes, is hereinafter called the *General Debt* of the said City; and whereas by the said Act it is also in effect enacted, That, for the purpose of extending and improving the said Water Works, it shall be lawful for the Council of the said City, to borrow a sum not exceeding fifty thousand pounds, currency, exclusive of the said sum of one hundred and fifty thousand pounds, and in addition to the debt contracted for the purchase of the said Water Works, under the authority of the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to authorize the Mayor, Aldermen and Citizens of Montreal, to purchase, acquire and hold the property now known as the Montreal Water Works*, which said debts so authorized to be contracted for the purpose of purchasing or improving the said Waterworks, are hereinafter called "*The Water Works Debt*" of the said City; and whereas the said "*General Debt*," and the said "*Water Works Debt*," are both secured upon the general funds of the said Corporation, and the said "*Water Works Debt*" is also secured by special privilege on the said Water Works; And whereas it is expedient to make provision for consolidating the said debts, and placing the financial affairs of the said City on a better footing, by providing means for paying off the said debts either by means of terminable annuities or of a Sinking Fund; and with this view to enable the said Corporation to borrow money for the purpose of paying off such portions of the existing debts as it may be found conducive to the attainment of the object aforesaid, to pay off: 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 in addition to any portion of the sums which the said Corporation is now authorized to borrow, and which may remain unborrowed at the time of the passing of this Act, it shall also be lawful for the said Corporation, to borrow from time to time under the provisions of this Act, such further sums as may be necessary to pay off any part of their debt, (whether forming part of the

said General Debt, or of the said Water Works Debt, or of the debt to be contracted under this Act, hereinafter called the *Consolidated Debt*), which shall be overdue or which they shall deem it advantageous to the City to pay off; provided, that the total amount of the debt or debts of the said City, shall never exceed the total amount of the General Debt and the Water Works Debt now authorized, except for such short intervals of time as must, necessarily occur between the borrowing of any sum for the purpose of paying off any sum due by the Corporation, and the actual paying off the same, and then only by such sum as shall be actually in the hands of the Treasurer, or at the call and disposal of the Corporation, with the intent and for the sole purpose of its being used for paying off any such sum as aforesaid owing by the Corporation.

II. And be it enacted, That any sum which the said Corporation is empowered to borrow under this Act, may be borrowed either in this Province or elsewhere, and the principal and interest thereof may be made payable, either in this Province or elsewhere, and either in the currency of Canada or in that of the place where the same shall be payable, and generally all the provisions of the Acts now in force as to Debentures issued by the said Corporation, shall apply to those to be issued under this Act, except only in so far as they may be inconsistent with this Act.

III. And be it enacted, That it shall also be lawful for the said Corporation to grant Bonds for Terminable Annuities to parties from whom they shall borrow any sum of money under the authority of this Act, instead of issuing to such parties Debentures of the nature mentioned in any preceding Act or Acts; and any such Annuity may be made payable either in this Province or in any other Country, and either in the Currency of this Province, or in that of the Country in which the same shall be payable, and the amount of any such Annuity, and the term during which it shall be payable may be such as shall be agreed upon by the Corporation of the said City, and the other party interested, any law to the contrary notwithstanding; and any such Annuity may be made payable to the Bearer of the Bond or of the proper *Coupons*, and either by yearly or half yearly payments, and generally the provisions of former Acts as to such Debentures as aforesaid shall be applicable, so far as the case will admit, to Bonds for Terminable Annuities to be issued under this Act; Provided always, that in calculating the amount of the Debt of the said City, for the purpose of ascertaining whether the amount limited by this Act, has or has not been exceeded, each such Bond shall be reckoned as representing an amount of Debt equal to the sum which the Corporation obtained for it; And provided also, that the term for which any such annuity shall be granted shall not exceed twenty years.

IV. And be it enacted, That any Debenture or Bond issued by the said Corporation after the passing of this Act, shall be held to form part of the Consolidated Debt of the said City, whether it be issued to any party actually making anew Loan to the Corporation or to a party taking such Debenture or Bond in exchange for another or others issued before the passing of this Act, and forming part of the said General Debt or of the said Water Works Debt.

V. And be it enacted, That it shall be lawful for the said Corporation to call in all Debentures or Bonds issued before the passing of this Act, the principal sum secured by which may be over due; and such calling in shall be by advertisement inserted three times at intervals of two weeks in the *Canada Gazette* in both languages; and three times at intervals of two weeks in some Newspaper

published in the said City in the English language, and in some Newspaper there published in the French language, and after the day named in such advertisement, (which shall not be before the time at which the last insertion thereof may be made as aforesaid,) no interest shall be payable by the said Corporation on any Debenture or Bond so lawfully called in and not presented for payment on or before the day named as aforesaid.

VI. And be it enacted, That it shall be the duty of the Treasurer of the City of Montreal, before the Quarterly Meeting of the Council of the said City, in the month of September in the year one thousand eight hundred and fifty-three and in each year thereafter, to take from and out of the annual revenues and funds of the Corporation of the said City of Montreal (from whatsoever source arising), and before the payment of any appropriation whatsoever of the said revenues of funds, a sum of money equal to two per cent on the then outstanding Consolidated Debt of the City secured otherwise than by Bonds for Terminable Annuities, which said sum of money the said City Treasurer shall keep apart from all other moneys, to be invested and applied under the orders of the City Council, solely and exclusively as a Sinking Fund, towards the extinction of that portion of the said Consolidated Debt secured otherwise than by Bonds for Terminable Annuities; it shall also be the duty of the said Treasurer at the same time to take from and out of the annual revenues and funds of the said City from whatever source arising, and before the payment of any appropriation whatsoever of the said revenues or funds, such sum of money as will be sufficient to pay all the sums then due or to become due during the then next six months for Terminable Annuities granted under this Act; and it shall be the duty of the Mayor, or person acting as such for the time being, and of the Aldermen and Councillors of the said City, to see that the provisions of this Section be strictly carried out in each year, by the persons whose duty it is to carry out the same, and within the time prescribed therein, and that the sum set apart as a Sinking Fund be invested without delay in the Public Provincial Securities, or in the Stock of such of the Chartered Banks of this Province as shall afford the most ample security and be the most advantageous to all the parties concerned, and that any sum so set apart for the payment of Terminable Annuities be invested in the most advantageous manner consistent with its being at the command of the Treasurer when required to pay such Annuities: And it shall be the duty of the City Treasurer to place before the Council, at its First Meeting in the month of September in each year, a certificate signed by himself and countersigned by the Mayor of the said City, to the effect that he has faithfully fulfilled the obligations imposed upon him by the present section of this Act, and in default of his so doing the said City Treasurer shall, *ipso facto*, become and be liable to pay to the said Corporation a fine of Five Hundred Pounds currency, which said fine the said Council shall exact from the said Treasurer within the shortest possible delay, and the same shall form part of the Sinking Fund aforesaid, or shall be applied to pay off the said Annuities, if not required for the said Sinking Fund; and for the purpose of furnishing additional and more ample security to the lenders of the said money, it shall be the duty of the Auditors of the said City annually to lay before the said Council a statement under oath showing whether the said Treasurer has or has not fulfilled all the obligations imposed upon him in and by the said section.

VII. And be it enacted, That all the Revenues arising from or out of the supplying of water to the said City, or from the property moveable or immoveable connected with or belonging to the Water Works for supplying the same, shall, after providing for the payment of the current

expenses of the Water Works Department, and the interest accruing on the Debentures or Bonds issued by the said Corporation before the passing of this Act, for moneys borrowed under the authority of the Act hereby amended or of any preceding Act, for the purchase or improvement of the said Water Works, (and so forming part of the Water Works Debt of the said City,) be formed into a fund separate and apart from all other funds of the said Corporation, and shall be applied by the said Corporation towards the extinction of the said Water Works Debt, and after the extinction of the said Debt the said Revenues shall make part of the General Funds of the Corporation, and may be applied accordingly.

VIII. And be it enacted, That if hereafter at any time it shall happen that the moneys in the hands of the Treasurer of the said City, and applicable to the payment of the interest or of the principal of the said Consolidated Debt of the said City, or any terminable annuity forming part of the said Consolidated Debt, shall be insufficient to pay any such interest or principal or annuity then due, it shall be the duty of the said Treasurer to calculate 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 allowances for expenses, losses and deficiencies in the collection of such Rate) be required to produce a sum sufficient, with the moneys in his hands applicable to the purpose, to pay the sum due for such principal, interest and annuity, and to certify such Rate under his hand to the Clerk of the said City, for the information of the Council, in the following form, or to the like effect:

“Sir, — I hereby certify, for the information of the Council of the City of Montreal, that a Rate of \_\_\_\_\_ in the pound, on the assessed yearly value of the property liable to assessment in the said City, is in my opinion (after making a fair allowance for losses and deficiencies in the collection of such Rate) required to produce a nett amount equal to that now due for interest, (principal, if any be due) and annuities forming part of the Consolidated Debt of this City.”

And such certificate shall have the like effect as a By-law of the Council of the said City lawfully imposing the Rate therein mentioned, and shall be obeyed and acted upon by all Officers of the Corporation and by all others, and the Rate therein mentioned shall be forthwith levied and paid accordingly, and in addition to any other Rates lawfully imposed by any By-law of the City Council, notwithstanding any provision in the Act hereby amended or in any other Act, limiting the amount of Rates to be imposed in any one year, or as to the time of the year at which Rates may be imposed, levied or collected; and the proceeds of such Rate shall be applied first to the payment of the principal, interest and annuities, as the case may be, for the payment whereof the Rate was imposed, and if there be any surplus of the said proceeds, such surplus shall make part of the Sinking Fund for the extinction of the said Consolidated Debt, or if there be no part of the said Debt for which a Sinking Fund is required under this Act, then such surplus shall be applied to the general purposes of the Corporation.

IX. And be it enacted, That if hereafter at any time, 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 Debenture or Corporation Bond forming part of the said Consolidated Debt of the said City or for arrears of any annuity forming part of the said Consolidated Debt, the Plaintiff may require, and the Court may 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 allowances 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, in the manner and form *mutatis mutandis*, prescribed for the certificate of the Treasurer in the eighth section of this Act, 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 certificate shall have the like effect as the certificate of the Treasurer, in the eighth section mentioned, 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, or by any certificate of the City Treasurer, notwithstanding any provision in the Act hereby amended or in any other Act, limiting the amount of Rates to be imposed in any one year, or the time of the year at which Rates are to be levied and collected: 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, the said surplus shall be paid back to the Treasurer and form part of the Sinking Fund for the extinction of the said Consolidated Debt, or if there be no part of the said Debt for which a Sinking Fund is required under this Act, then such surplus shall be applied to the general purposes of the said Corporation.

X. Provided always, and be it declared and enacted, That nothing herein contained shall be construed to impair or affect any special privilege or hypothec, granted by the Act hereby amended or by any other Acts, to the holder of any Debenture or Corporation Bond issued before the passing of this Act, forming part either of the said "General Debt," or of the said "Water Works Debt" of the said Corporation, or any remedy which, without this Act, any such holder would have to recover the principal or interest of such Debenture or Corporation Bond, or in any way to relieve the said Corporation from the obligation to make provision by all lawful means for the payment of the same; and that no further provision which the Legislature of this Province may deem it expedient to make for enforcing the provisions of this Act, or the due payment of the principal and interest of any Debenture or Corporation Bond, whether issued before or after the

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passing of this Act, or of any annuity secured by any Corporation Bond, shall be deemed an infringement of the privileges of the said Corporation, or of any citizen or member thereof.