

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

16 Victoria – Chapter 59

**An Act to facilitate the winding up of the affairs of the Mutual Fire Assurance Company of the County of Montreal. 10th November, 1852.**

Whereas the Mutual Fire Assurance Company of the County of Montreal, established under the authority of an Act of the Legislature of the late Province of Lower Canada, passed in the fourth year of the Reign of His late Majesty William the Fourth, intituled, *An Act to authorize the establishment of Mutual Fire Insurance Companies*, and recognized under the name aforesaid, by an Act passed in the fourth and fifth years of Pier Majesty's Reign, intituled, *An Act to amend an Act of the Legislature of Lower Canada relative to the establishment of Mutual Fire Insurance Companies*, have by their petition represented that the losses by them sustained in consequence of the destruction by fire in the course of the present year, (one thousand eight hundred and fifty-two,) of a large amount of property by them assured in the City of Montreal, greatly exceed the capital which is at present or could be at any future period at the disposal of the said Company, or deposited in their hands under the authority of the various laws relative to their establishment and existence; that being thus able to meet these losses in part, only, in consequence of the insufficiency of the said funds, the interest and security of all the parties concerned require that the dissolution of the said Company, and the winding up of their affairs should be effected as speedily as possible, and in order to attain that end in the manner least prejudicial to the interests of the parties concerned, it is necessary for the said Company that more ample Legislative provisions should be made, those, at present in force, in so far as regards the said Company, being in this respect defective: 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 date of the passing of this Act, it shall not be lawful for the said Company to assure property belonging to any party whomsoever; but all property which, up to that period, shall have been assured in the office of the said Company shall, notwithstanding the foregoing enactment, continue to be so assured, to all intents and purposes whatsoever as if this Act had never been passed, and so continue during the entire period stipulated in the policy of Assurance thereof, or until the dissolution of the said Company shall have been pronounced in the manner hereinafter provided, or until the member of the said Company to whom the said policy relates shall have legally ceased to be a member of the said Company, or shall have legally retired from the said Company by the cancelling of the said policy, in conformity with the provisions of an Act of the said Legislature of the heretofore Province of Lower Canada, passed in the sixth year of the Reign of His late Majesty William the Fourth, and intituled, *An Act to continue for a limited time and to amend a certain Act therein mentioned, relative to the establishment of Mutual Fire Insurance Companies*.

II. And be it enacted, That the annual election of Directors of the said Company shall not hereafter be held on the first Monday in October, but that the persons who shall at the time of the passing of this Act compose the Board of Directors of the said Company shall, throughout the entire future duration of the said Company, continue to be the Directors for all purposes whatsoever, as also any person who, in case of a vacancy occurring in the said office, shall hereafter be appointed a Director of the said Company, in the cases provided for by the sixth Section of the Act first hereinbefore, cited, which said Directors so continuing in office shall have the same rights and powers, as they would have had, if they had as heretofore been elected at an annual meeting of the members of the said Company.

III. And whereas it is for the interest of all parties concerned, that the winding up of the affairs of the said Company be rendered as advantageous as possible, and in order thereto, it is expedient to authorize the Directors of the said Company, in certain cases, to grant to parties indebted to the said Company a reasonable delay, in order thereby to facilitate their means of paying to the said Company the amount due upon all their premium notes deposited in the office of the said Company, and which are now due and payable, and also the sum of ten shillings, currency, on every hundred pounds of the amount assured in the office of the said Company; Be it enacted, and it is hereby enacted, That the said Directors shall have discretionary power to grant to any party indebted to the said Company, in order to the payment of his debt, when they shall consider it in the interest of the Company so to do, such delay (not exceeding in any case the period of twelve months to be computed from the fourth day of October, one thousand eight hundred and fifty-two,) as it shall appear to them reasonable to allow, subject to the condition if required by the said Directors, that the said debt shall be paid by instalments, and that in such case, in default of payment at the stated period of any of the said instalments, the total amount of the said debt, or so much thereof as shall remain due at any of the said periods shall become due and payable as if such delay had never been allowed; and the said Directors in granting such delay as aforesaid, shall have the right to stipulate with the said debtor, that he shall be bound to pay interest at the rate of six per cent. upon the amount of his debt to the said Company, to be computed from the date of such stipulation.

IV. And be it enacted, That notwithstanding any of the provisions contained in the preceding Section of this Act, or in any other Act or law whatsoever, the rights of the said Company against all its debtors and endorsers or the sureties of the latter and more especially against all its said debtors to whom delay shall have been granted as hereinbefore allowed, and against all the endorsers or sureties of such debtors, as also the privileges and hypothecs of the said Company upon the property of every such debtor, and upon the property of each one of the said sureties and endorsers by virtue of existing laws, and especially by virtue of the provisions of the ninth Section of the said hereinbefore cited Act, passed in the fourth year of the Reign of his late Majesty King William the Fourth, as modified by the provisions of the seventh Section of the said hereinabove cited Act passed in the sixth year of the same reign, for the guarantee of the payment of any debt whatsoever of all and every such debtor to the said Company, due either both before or after the passing of this Act, shall for all purposes whatsoever, be maintained and remain in full force, both as regards every such debtor and each one of his sureties and endorsers, and also as

regards every other party whatsoever, in the same manner as if the said rights, privileges and hypothecs had been specially granted by this Act.

V. And be it enacted, That no one of the said endorsers or sureties of any debtor mentioned in the preceding Sections, shall be entitled or shall have the right by reason of the delay granted to the said debtor by the Directors of the said Company, under the authority of the third Section of this Act, to plead either prescription, or that the said debtor has become insolvent during the period of the said delay, against the said Company or their assigns, for the purpose of invalidating his endorsement or security in favor of such debtor.

VI. And be it enacted, That when, in the opinion of the Directors of the said Company, the time for so doing shall have arrived, they shall present a petition to the Superior Court, sitting in the District of Montreal (the said petition being accompanied by a report or exact statement of the affairs of the said Company), representing, that in the opinion of the Petitioners, there is no further reason for carrying on the administration of the affairs of the said Company; that the time has arrived, when for the interest of all parties concerned, the said Company should be dissolved, and if necessary, that the discharge of the said Directors of the said Company, and also, in the discretion of the Court, that of any other party whatsoever, should be definitively pronounced.

VII. And be it enacted, That on the presentation of the petition mentioned in the preceding Section, the said Court shall order, on the application of the Petitioners, a call to be made of the creditors of the said Company, and of all other parties interested in the affairs thereof, by an order made upon the said petition by the said Court, and inserted under the signature of the Prothonotary thereof at least four times in the course of two months in two newspapers published in the said City of Montreal, one in the French language and the other in the English language, requiring the creditors of the said Company, or any other party interested in the affairs of the said Company, to file in the office of the said Court, in the said City of Montreal, on or before the day which shall be fixed for that purpose in the said order, any claim they may have to make against the said Company or against their estate either moveable or immoveable; and upon the proceedings founded upon the said petition, the said Court shall proceed to hear and decide upon the respective rights and claims of the parties, as in any other case of a like nature brought before it, according to the ordinary course of law and practice; and when, in the opinion of the said Court, it shall be necessary so to do, it shall render its judgment, pronouncing the dissolution of the said Company according to the provisions of and with the effect provided by this Act.

VIII. And be it enacted, That upon the rendering of the said account, the said Court shall be empowered at any time to order, if it shall think proper so to do, that the balance thereof be deposited by the said Directors or by the Secretary Treasurer of the said Company, in the office of the said Court, in order to its being thereafter disposed of in favor of the parties entitled thereto, the amount of which balance shall be stated in the above mentioned judgment of the said Court.

IX. And be it declared and enacted, That none of the provisions contained in the preceding Sections shall extend or be construed to extend to deprive the Directors of the said Company of the power to determine, declare and pay dividends and apportionments out of the funds at their

disposal, as heretofore, which dividends or apportionments, it shall be then- duty to determine, declare and pay, as frequently as possible, as fast as the said funds will permit, and in the manner and form which they shall consider most expedient, in order to facilitate the settlement of the affairs of the said Company and to satisfy the claims existing against it.

X. And be it enacted, That the notice given by the said Company and published by it under the signature of the President and Secretary thereof, and bearing date the sixteenth day of October, one thousand eight hundred and fifty-two, in two newspapers published in the City of Montreal, and intituled respectively *La Minerve* and the *Montréal Herald*, shall, for all purposes whatsoever, be deemed to be the public notice required in like cases by the eighth Section of the said Act hereinbefore cited, passed in the sixth year of the reign of His Majesty King William the Fourth, and shall be sufficient to produce the effect contemplated by the said eighth Section of the Act hereinbefore last mentioned, although in fact the said notice may not have been published in the manner prescribed by the said eighth Section, that the said notice shall be evidence of its contents, and that all payments, dividends, apportionments and sums of money therein mentioned have been duly established, ordained and determined by the Directors of the said Company, and that the recovery thereof may be prosecuted after the lapse of thirty days from the said first publication of the said notice in the two newspapers aforesaid; Provided always, that any number or copy of one or other of the said two newspapers, in which the said notice shall have been so published, shall be authentic proof of the said publication.

XI. And be it enacted, That any summons or service having reference to the said Company in any manner whatsoever, made at the office of the said Company, speaking to any competent person therein, or personally to the President or Secretary Treasurer of the said Company, shall be held to be a valid service for all purposes whatsoever.

XII. And be it enacted, That this Act shall be a Public Act for all purposes whatsoever.