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BILL.

An Act to afford relief and make compensation to persons who, as Tenants under Emphyteotic Leases, improve their houses and buildings in obedience to certain By-laws of the City of Quebec, passed for the prevention of accidents by fire.

Received and read a first time, Friday, 4th March
1853.

Second reading, Tuesday, 8th March, 1853.

Mr. LEMIEUX.

QUEBEC:

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

An Act to afford relief and make compensation to persons who, as Tenants under *Emphyteotic* Leases, improve their houses and buildings in obedience to certain By-laws of the City of Quebec, passed for the prevention of accidents by Fire.

WHEREAS a large portion of the real estate situate within the limits and in the vicinity of the City of Quebec, is held under the tenure of *Emphyteotic* Leases, by virtue whereof the Lessee is bound, at the expiration of the specified period, to restore and deliver up the premises to the Lessor in good order and condition, and with all the buildings, erections, and improvements thereon : And whereas by the forty-first Section of the Ordinance incorporating the City of Quebec, passed in the fourth year of Her Majesty's Reign, and intituled, "*An Ordinance to incorporate the City of Quebec*," it was ordained and enacted, That it should be lawful for the Council of the said City to make such By-laws as to them should seem meet for the good rule, peace, welfare and government of the said City : And whereas by a By-law duly made and passed by the Council of the said City, on the nineteenth day of June, in the year of Our Lord, one thousand eight hundred and forty-five, intituled, "*A By-law to prevent Fires*," it was ordained, that whereas it was necessary to prevent, by all possible means, the extension of Fire, and whereas one of the most efficient to attain that end, was to limit the use of wood in the construction of the buildings of the said City, from the day of the passing of the said By-law, no wooden house or other building for any other purposes whatsoever, should be constructed within the limits of St. Lewis', Palace and St. Peter's Wards, and in that part of Champlain Ward extending from St. Peter's Ward to the Mariners' Chapel, save and except out-houses, which it would be lawful to build thereafter on the wharves which were or might be thereafter constructed in that part of Champlain Ward, lying South and South West of the house of the Widow Robert Martin, No. 293 of said Street, and that if any person should build or cause to be built any wooden house or other building within the said limits, such person should incur a penalty of five pounds for each offence, and for each day that such house or building should be allowed to stand ; and that any person who should employ or use any wooden beam, lintel, post or supporter to permanently sustain or support any brick or stone wall, or part of a wall of any house or other building within the limits of the said Wards or portions of Wards, or should mix externally in the construction of the face or gable end wall of any house or other building, any wooden jamb (*jambe étrière*) frame in use in the said City, and employed as well externally as internally to form the lintels, jambs and basement (*appui*) of the windows and doors, should incur a penalty of five pounds currency, with costs, for each offence and

Preamble.
Recital.

Ordinance 3 &
4 V., c. 35
cited.

By-law of the
City, for pre-
venting fires,
made on 19th
June, 1845,
recited.

for each day that such cause of offence should continue to exist; and that from and after the day of the passing of the said By-law, no roof, clap-board- 5
 ing or water-spout were already made, such roof, clap-board- 5
 ing or water-spout should not be renewed, and that any person contravening the said
 clause, should incur a penalty of five pounds currency, with costs, for
 each offence, and for each day that such cause of offence should exist; 10
 and that at the expiration of ten years from the day of the passing of the 10
 said By-law, all and every wooden roof, clap-boarding, or water-spout
 of any house or other building, then standing, and situated within the
 limits of the said Wards or portions of Wards, should be taken off and
 replaced by others made of incombustible matter, and that any person 15
 contravening the said clause, should incur a penalty of five pounds 15
 currency, with costs, per day, and for each day that such persons should
 neglect or refuse to comply with the said By-law; and that all buildings
 containing steam-engines should be built of stone or brick, and covered
 with incombustible matter, and the boilers or furnaces of any steam- 20
 engines used in manufactories, breweries, tanneries, foundries, distil- 20
 leries, factories and shops of all kinds without exception, then existing,
 or which might thereafter exist within the limits of the said City,
 should from the day of the passing of, the said By-law be placed in
 separate rooms, the walls of which should be built of stone or brick, and 25
 that in the construction of such rooms, no wood of any kind should be used 25
 or employed, except for the doors and windows, the fixtures of which
 should, however, be made of incombustible matter, and except also for
 the ceilings which it would be lawful to make of wood, but in such case
 such ceilings should be covered with metal or lathed and plastered, and any 30
 person contravening the said clause should pay a penalty of five pounds 30
 for each offence and for each day that the cause of offence should exist:
 And whereas by another By-law duly made and passed by the Council
 of the said City of Quebec, on the eighth day of July, in the year of Our
 Lord, one thousand eight hundred and forty-five, intituled, "A By-law 35
 "to provide for the construction of dwellings in such way as to diminish 35
 "the danger of Fire," it was enacted, That thereafter it should not be
 lawful to build any house, dwelling or building for habitation, or in
 which it is intended to make or introduce fire, or to erect chimnies,
 ovens, furnaces, stoves, or other receptacles or machinery intended to 40
 receive fire, or in which fire may be placed or kindled, unless the four 40
 walls of such house, dwelling or building should be constructed of stone,
 brick, or in other incombustible materials, or unless the covering should
 be entirely composed or recovered with tile, tin, sheet iron, or other unin-
 flammable materials; and that in all buildings covered with metal, the 45
 lower surface of that part of the wooden roof which projects beyond the 45
 walls and the exterior surface of the wall-plate (*sablère*) (if constructed
 of wood) should be also covered with metal, and that all spouts and
 gutters should be made of incombustible materials, that all gables or
 division walls which separate buildings should be raised at least two feet
 above the level of the roof of the higher house or edifice with *consolles* in 50
 front and rear, which should project at least nine inches beyond the walls
 of the building; that all hangards, out-houses, stables, workshops or
 other buildings, the highest part of which should exceed fifteen feet,
 should be constructed in strict conformity with the said By-law; that

By-law for the
 same purpose
 made on 8th
 July, 1845, re-
 cited.

all similar buildings of at least fifteen feet in height should, nevertheless, Sic.
 be covered with incombustible materials between that date and the first
 day of September, one thousand eight hundred and forty-seven, and that
 it should not be lawful to construct chimnies, ovens or furnaces, or to
 5 place stoves or other receptacles for fire, or to use fire in the yards or
 streets in the vicinity of any building, or in the interior of any building
 which should not have been constructed as above directed; that all
 houses or other buildings of wood within the limits of the City of Que-
 bec should be lathed and plastered at least one inch in thickness, on the
 10 side next to the street, between the said day and the 1st September, 1847,
 and all buildings which should be constructed of wood in those Wards in
 which the use of that material was permitted by law should be lathed and
 plastered as above mentioned, and that the said last mentioned By-law
 should have full force and effect from the date of its adoption throughout
 15 the whole extent of the said City with the exception of that part of St. Roch's
 Ward situate to the west of Crown Street, in which the article of the said
 By-law, requiring houses and other buildings of wood to be lathed and
 plastered at least one inch in thickness on the side next the street, should
 be nevertheless observed; and that any undertaker, mason, carpenter or
 20 workman who should construct any part of a house or other building
 otherwise than in conformity with the said last mentioned By-law should
 incur a penalty of five pounds currency, for each day that such infraction
 of the By-law should subsist: And whereas the enactments and provi-
 sions of the said By-laws, so made by the Council of the said City of
 25 Quebec, were and are just and reasonable, and conducive to the welfare
 of the said City, and to the protection of property from accidents by fire:
 And whereas by reason thereof, for the benefit of the whole commu-
 nity of the said City and of the Environs thereof, persons holding property
par bail Emphyteotique are compelled to make alterations and ameliora-
 30 tions in and upon the houses and other buildings erected and being upon
 the land so occupied by them, which alterations and improvements form no
 part of the obligations imposed upon them by their contract with the pro-
 prietor of the land, and which, though made at the cost and expense of
 the lessee enure, eventually, at the termination of the lease, to the benefit
 35 of the lessor, according to the terms of the lease; And whereas it is right
 and just that the party receiving such benefit and advantage unforeseen
 and un contemplated by either party at the time of the making of the
 lease should make compensation for the same to the party from whom
 it has been or may be derived or obtained; Be it therefore enacted, &c.

40 That at the expiration of each and every Emphyteotic Lease of Lessees en-
 land situate within the limits of the City of Quebec, by the terms of which titled to
 lease or by virtue whereof the lessee is bound to restore and deliver up compensation
 to the lessor the land and premises so leased, with all the houses, build- for the addi-
 ings and improvements thereupon, where the lessee shall have altered tional value
 45 the houses or buildings or improved the same or any part thereof, or given to the
 erected houses or other buildings, in conformity with the above men- property by
 tioned and in part recited By-laws, or any of them, such lessee shall be improvements
 entitled to have and receive of and from such owner or lessor, compen- made under
 50 or parts thereof, by such changes or improvements or mode of building the said
 made or followed in conformity with the requirements of the said By- By-laws.
 laws.

Amount of
compensation
to be settled
by arbitration.

II. And be it enacted, That in order to ascertain the just amount of such additional value, each party shall within one month from and after the expiration of such Emphyteotic Lease, appoint an Arbitrator, and if either party shall refuse, or neglect so to do within one month from and after the expiration of such Emphyteotic Lease, appoint an Arbitrator, and if either party shall refuse or neglect so to do within the period aforesaid, having been thereto duly required by the other, it shall be lawful for any Judge of the Superior Court or of the Circuit Court, upon petition, to name such Arbitrator; and the Arbitrators so named by the parties, or by one of the parties and a Judge, shall estimate and value the improvements or changes aforesaid, and if they differ, may appoint an Umpire, and the award of the said Arbitrators and Umpire shall be final in all matters under £25, and in all matters where the award shall exceed £25 the award shall be likewise binding and final, unless appealed from by one or both of the parties by petition to the Court of Quarter Sessions for the District of Quebec, at its first sitting after the making and publishing of the award, where a Jury shall be empanelled to decide the amount, the party losing to pay all costs, to be taxed by the Judge or Chairman presiding at such Sessions. 5 10 15

Appeal in
cases over
£25.

Extent of this
Act.

III. And be it enacted, That the provisions of this Act shall apply and extend to all such lots of land, houses and buildings, as may hereafter be situate within the City of Quebec, by the extension of the limits of the said City. 20