

No. 178.

1st Session, 4th Parliament, 16 Victoria, 1862.

BILL.

An Act to provide for the recovery of the rates and taxes intended to be imposed by certain By-laws of the late District Councils in Upper Canada.

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October, 1862.

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MR. LANGTON.

QUEBEC:

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B I L L .

An Act to provide for the recovery of the rates and taxes intended to be imposed by certain By-laws of the late District Councils of Upper Canada.

WHEREAS the District Councils of several of the late Districts of Upper Canada, intending to carry into effect the enactments of the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, "*An Act to provide for the better internal government of that part of this Province, which formerly constituted the Province of Upper Canada, by the establishment of Local and Municipal authorities therein,*" have, since the passing of the said Act, passed divers By-laws imposing rates or taxes on lands in the said Districts, and the rates or taxes so imposed, have been paid by the great majority of the inhabitants and land-holders therein; And whereas it appears, that the total sum or sums to be raised under such By-laws, and the purposes to which they were to be applied, were not first determined by some of the said District Councils, and the sums afterwards apportioned and rated on the lands in the said Districts, but a certain rate or tax of so much per acre, was at once imposed on such lands, and that the said By-laws, or some of them, were otherwise informal, and contained provisions not strictly in accordance with the said Act; And whereas doubts may exist as to the true meaning and intention of the 41st Section of the said Act, and it is expedient to remove any such doubts as to the powers intended to be conferred on such District Councils, of imposing rates or taxes upon lands, and to legalize such rates as, if defective in form, were not inconsistent with the true intent and spirit of the Act above recited; And whereas in several of the said Districts, certain lands were sold for arrears of taxes, which had accrued under the said By-laws, and it is expedient to remove any doubts which may exist, as to the legality of such sales, and to confirm them with such provisions and limitations as shall secure the owners of the lands from any injustice; Be it therefore enacted, &c.,

That from and after the passing of this Act, no By-law of any of the late District Councils of Upper Canada shall be quashed on account of any want of form, or on account of any of the provisions thereof not being in strict accordance with the letter of the Act hereinbefore recited, so long as such provisions are in accordance with the true intent and meaning of this Act.

II. And be it enacted and declared, That any rate or tax, or rates or taxes, intended to be imposed on the lands in any of the late Districts of Upper Canada, by any By-law or By-laws heretofore passed by the District Councils thereof, and not disallowed by the Governor, shall be held to be valid, and justly chargeable on such lands, so

Proviso. long as the same did not in the whole exceed one penny halfpenny currency, per acre, in any one year : Provided always, that no increase or accumulation of such rates, intended to be imposed or charged by any such By-law, in consequence of the non-payment of such rates, shall be held to be valid or chargeable on the said lands : Provided also, that if 5 any such By-law or By-laws shall have taxed the lands in any District, by the acre unequally, so that a different tax was intended to be levied in different Townships or localities, or a different tax upon unoccupied land, from that at which land was rated on the Assessment rolls, the whole of the land in such late District, shall be held chargeable only 10 with the lowest tax per acre, at which any of the land was so intended to be rated.

Provision as to the tax of $\frac{1}{8}$ of a penny per acre. III. And be it enacted and declared, That if the By-laws of any of the late District Councils shall have taxed or rated land by the acre, the tax of one- 15 eighth of a penny per acre, charged on unoccupied land, in lieu of Statute labour, by the Act of Upper Canada, 59 Geo. III., cap. 8, shall be held to have merged in the tax imposed by such By-laws, and the land shall not be held to be chargeable therewith ; but if the By-laws of any of the said District Councils, taxed or rated the lands not higher than two pence in 20 the pound on the assessed value thereof, then the unoccupied land shall be held also liable to the tax of one-eighth of a penny per acre, unless such By-laws expressly released it from such a charge.

Taxes paid not to be recoverable. IV. And be it enacted and declared, That any sum or sums of money which shall have been paid to the Collector of any Township, in satisfaction of the rates charged on the Assessment Roll, or to the Treasurer of 25 any District, or of any County since the abolition of Districts, in satisfaction of any tax upon land, shall not be recoverable, although such rate or tax may have exceeded that, which might legally have been chargeable, or may have been imposed by an informal By-law of the said District Councils ; and no surcharge or additional demand shall be 30 made, if the sums so received by such Collector or Treasurer fell short of what was legally chargeable. And all land, for or in respect of which any such rate or tax has been paid ; shall be released from any liability or charge, for the year or years, in respect of which such tax was paid ; but all lands liable to assessment, and upon which no payment has been 35 made in respect of the tax for any year, shall be held chargeable with such a tax for that year, as is hereinbefore declared to be chargeable upon it, notwithstanding any informality in the By-laws by which such tax was intended to be imposed.

Repeal of By-laws not to be held to have extinguished arrears. Proviso. V. And be it enacted and declared, That the subsequent repeal of any 40 By-law of any District Council shall not be held to have extinguished the arrears of the taxes imposed or intended to be imposed by such By-law, and which were due for the years previous to the repeal of the By-law. Provided always, that nothing herein contained shall be construed to continue the tax for the year in which such By-law was repealed, and 45 another By-law passed in place thereof ; but in all such cases the tax or arrear of tax shall for that year be taken to be that imposed by the repealing By-law.

Treasurer of every County to make out a certain list of VI. And be it enacted ; That within months after the passing of this Act, it shall be the duty of the Treasurer of every County in Upper 50 Canada, and he is hereby required, to make out a list of every Lot or

part of Lot in his County, upon which any taxes may appear to be unpaid, and in arrear, whether the said taxes accrued before or after the establishment of District Councils. And he shall set down opposite each Lot or part of Lot the total sum, which shall appear to be so due and in arrear up to the 1st day of January, 1853, including in such total sum the proportional charge for the cost of advertising. And he shall calculate the amount of tax due on each Lot according to the provisions of the Acts 59 Geo. III, cap. 7 and 8, and subsequent Acts of the Province of Upper Canada, amending the same, until such time as any By-law of the late District, in which the land so in arrear was then included, came into force, altering the rate authorized and imposed by the said Acts; and from the time any such By-law as aforesaid came into force, and as long as it continued in force he shall calculate the tax according to such of the provisions of this Act, as define the rates and taxes, which shall be chargeable upon the land in respect of the rates intended to be imposed by the By-laws of such District Councils.

lands on which such taxes are due.

VII. And be it enacted, That the Treasurer of each and every County in Upper Canada shall cause such list of lands and arrears of taxes to be advertised in the Canada Gazette, and in some newspaper published in the County in which the lands are situate, in the manner provided by Upper Canada Assessment Act of 1850. And such lands so advertised shall not be sold for the arrears of taxes before the 1st of July in the year 1854, anything in the before recited Act to the contrary notwithstanding; Provided always, that the advertisement by this Section required to be made, shall be held to be in place of the advertisement required to be made by the aforesaid Assessment Act.

Such lists to be advertised and how: the lands not to sold before a certain day.

Proviso.

VIII. And be it enacted, That in case any lands have been sold for arrears of taxes, any part of which were calculated and claimed to be due under any By-law of any of the late District Councils, the Treasurer of the County in which such lands were situated, shall within three months after the passing of this Act, prepare and advertise as aforesaid a list of all the lands so sold and not afterwards redeemed, which list shall shew the date of sale, the amount for which the land or any portion of it was sold, and the amount of tax, which was justly chargeable upon the land according to the provisions of this Act, up to the date when it was advertised previous to such sale, including in the last named sum the cost of such sale; Provided always, that if in any District no By-law was passed imposing a rate on unoccupied land, or a By-law was passed which did not vary the tax to which such lands was liable under the Assessment Laws in force in Upper Canada, it shall not be necessary to advertise the lands sold in any such District, nor shall the lands so sold be liable to be redeemed in the manner provided by the Section of this Act next following.

List of lands sold and afterwards redeemed, to be advertised in certain cases.

Proviso.

IX. And be it enacted, That at any time within one year after the date of the first publication of the advertisement required to be made by the next preceding Section, it shall and may be lawful for the owner of any Lot or parcel of land, or for any one authorized on his behalf, to pay to the said Treasurer the amount justly chargeable on the land, as is hereinbefore provided, together with the costs of the former sale, and interest thereon from the date of such sale to the date of payment, which payment shall be carried by the Treasurer to the account of the County;

Taxes and costs may be paid on any land within a certain time after such advertisement.

Certificate in such case, and avoidance of sale for taxes.

and the said Treasurer shall thereupon, without any charge, give to the person so redeeming a certificate, in the form prescribed in the Schedule appended to this Act, and marked A, that the land has been redeemed, which Certificate the Registrar of the County is hereby required to register, upon the payment to him of a fee of two shillings and six pence, 5
 of such Certificate, and the registry thereof shall annul and make void the deed formerly executed by the Sheriff to the purchaser of the land for arrears of taxes, and shall re-convey the land to the former owner, and give him right to the possession thereof as fully as if no such deed of the Sheriff had been executed; Provided always, that if there shall 10
 be any improvements upon the land, and the land shall be in the occupation or possession of any person having a bonâ fide title or claim thereto, either as the purchaser at the sale for taxes or by deed, bond, or written agreement to sell from the purchaser, the original owner, before re-entering into possession, shall pay to such occupant reasonable compensation 15
 for his improvements made since the date of sale, and such compensation shall be determined in the manner and with the forms provided in case of erroneous surveys by the 49th and 50th Sections of the Surveyors Act, 12 Vic., cap. 35.

Proviso: as to persons having made improvements on the land, and being in the occupation thereof.

List of redeemed lands to be published.

X. And be it enacted, That one year after the date of the first advertisement required to be made by the ninth Section of this Act, it shall be the duty of the Treasurer aforesaid to publish in the manner required for the other advertisements before mentioned, a list of all lands previously sold for taxes and conveyed by the Sheriff, but which have 25
 been redeemed in the manner provided by the said Section; And the said Treasurer shall at any time after the redemption of the land, upon the demand of the purchaser, and the surrender by him of the Sheriff's deed pay out of any County money in his hands the sum for which the land was sold by the Sheriff, and the cost of the Sheriff's deed and registry thereof, together with the interest upon the whole of such sums from 30
 the date of the sale to the date of redemption, and if the Treasurer shall refuse or neglect to pay the same, such total sum and interest shall become a debt due by the County Council of such County, and shall be recoverable in the manner provided by law for the recovery of other debts. And the Treasurer shall cancel the deed so surrendered to him, 35
 by writing across the face of it, a certificate in the form prescribed in the Schedule appended to this Act, marked B, and he shall deliver the deed so cancelled to the Registrar of the County in which the land is situate, who is hereby required without any charge to file it with the certificate 40
 of the redemption of the same land.

Money paid by purchaser of such redeemed land to be refunded with interest.

Deed to be cancelled.

Sale of lands confirmed if they be not redeemed within a certain time.

XI. And be it enacted, That if any land sold for arrears of taxes as aforesaid shall not have been redeemed in the manner and within the period allowed and provided by this Act, such sales shall be confirmed and held valid as fully as if they had been made under the authority of the Assessment laws in force in Upper Canada, previous to the passing 45
 of the Act 12 Vic., cap. 30, and the arrears on account of which the sales took place, had not comprised any taxes imposed or intended to be imposed by any By-law of the late District Councils.

Interpretation.

XII. And be it enacted, That whenever the words "owner," "purchaser," and "occupant" occur in this Act, or the words "he" or "his," 50
 or other words designating the owner, purchaser or occupant, such words

shall be construed to mean such persons or their heirs, executors or assigns, and to include the singular or plural, masculine or feminine, as the case may be. And the word County shall be construed to include Unions of Counties.

SCHEDULE A.

I, _____ Treasurer of the County (or United Counties) of _____ do hereby certify, that I have received from _____ the sum of _____ being the whole amount payable according to the provisions of an Act of the Province of Canada, passed in the 16th year of Her Majesty's Reign, intituled, "*An Act to provide for the recovery of the rates and taxes intended to be imposed by certain By-laws of the late District Councils of Upper Canada,*" and chaptered _____ in redemption of lot (or part of lot, describing it, or acres of lot, as the case may be,) number _____ in the Concession of the Township of _____, which was sold by the Sheriff of the District of _____ (or County of _____) for arrears of taxes on the _____ day of _____ in the year _____

Dated. _____ Signed.

SCHEDULE B.

This deed is cancelled by me _____ Treasurer of this County (or United Counties) of _____, the land described therein having been redeemed on the _____ day of _____ in the year _____

Dated _____ Signed.