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No. 99.

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1st Session, 4th Parliament, 16 Victoria, 1852.

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**B I L L .**

**An Act to authorize the City of Montreal to raise a Loan to Consolidate their debt.**

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**Received and read first time, Wednesday, 22nd  
September, 1852.**

**Second reading, Monday, 27th Sept., 1852.**

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(450 Copies.)

**Hon. Mr. BADGLEY.**

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**S. Derbishire and G. Desbarats, Queen's Printer.**

(99)

BILL.

An Act to authorize the City of Montreal to raise a Loan to consolidate their debt.

**W**HEREAS by the Act passed in the Session held in the Preamble.  
fourteenth and fifteenth years of Her Majesty's Reign, 14 & 15 V. c.  
and intituled, *An Act to amend and consolidate the provisions of* 128.  
*the Ordinance to Incorporate the City and Town of Montreal,*  
5 *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 Mont-  
real to borrow, on the credit of the said City, such sum or sums  
10 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  
15 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  
20 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  
25 seventh year of Her Majesty's Reign, and intituled, *An Act to* 7 V. c. 44.  
*authorize the Mayor, Aldermen and Citizens of Montreal, to*  
*purchase, acquire and hold the property now known as the Mont-*  
*real Water Works,* which said debts so authorized to be con-  
tracted for the purpose of purchasing or improving the said  
30 Water Works, 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  
35 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 an-  
nuities or of a Sinking Fund; and with this view to enable the  
40 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  
45 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 15 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, 20 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.

Corporation empowered to borrow money to pay off their present Debt, &c.

Proviso :  
Total amount of debt limited

How and where such money may be borrowed.

II. And be it enacted, That any sum which the said Corporation is empowered to borrow under this Act, may be borrowed 25 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 30 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.

Terminable annuities may be granted for money.

III. And be it enacted, That it shall also be lawful for the said Corporation to grant Bonds for Terminable Annuities to parties 35 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 40 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 45 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 Bond for Terminable Annuities to be 50

Form of Bonds, &c.

issued under this Act ; Provided always, that in calculating Proviso.  
 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  
 5 representing an amount of Debt equal to the sum which the  
 Corporation obtained for it ; And provided also, that the term Proviso.  
 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 Money so bor-  
 10 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 a new Loan to the Corpo- rowed to form  
 ration or to a party taking such Debenture or Bond in exchange consolidated  
 for another or others issued before the passing of this Act, and debt.  
 15 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 Outstanding  
 Corporation to call in all Debentures or Bonds issued before debentures  
 the passing of this Act, the principal sum secured by which over due may  
 20 may be over due ; and such calling in shall be by advertise- be called in.  
 ment inserted three times at intervals of two weeks in the  
*Canada Gazette* in both languages ; and three times at inter-  
 vals of two weeks in some Newspaper published in the said  
 City in the English language, and in some Newspaper there  
 25 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  
 30 for payment on or before the day named as aforesaid.

VI. And be it enacted, That it shall be the duty of the Treas- Duty of Treas-  
 35 urer 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 urer to  
 funds of the Corporation of the said City of Montreal (from provide a  
 whatsoever source arising), and before the payment of any ap- sinking fund  
 propriation whatsoever of the said revenues or funds, a sum of for debt not  
 money equal to *two* per cent on the then outstanding Consoli- secured by  
 40 dated Debt of the City secured otherwise than by Bonds for annuities.  
 Terminable Annuities, which said sum of money the said City  
 Treasurer shall keep apart from all other monies, to be invested  
 and applied under the orders of the City Council, solely and  
 exclusively as a Sinking Fund, towards the extinction of  
 45 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 And to pro-  
 of the annual revenues and funds of the said City from whatever vide for pay-  
 source arising, and before the payment of any appropriation ment of  
 annuities.

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.

Treasurer to lay certificate of his having complied with this section, before the council.

Sinking fund for water works debt.

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 monies 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 monies 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 monies 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:

Duty of treasurer if at any time he shall not have money in his hands to meet interest or annuities due.

“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

Duty of sheriff on receiving a writ of execution against corporation for monies forming part

of the con-  
solidated debt.

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 5 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 10 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 15 Treasurer in the *seventh* 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 20 the Treasurer, in the *seventh* 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 25 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 30 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, 35 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 40 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 45 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 50 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 hypothecation, 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 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.

Proviso.  
Securities for  
preventing  
debt not to be  
impaired.