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No. 107

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

BILL.

**An Act to establish a Consolidated
Municipal Loan Fund for Upper Ca-
nada.**

Received and read first time, Tuesday, 7th
September, 1852.

Second reading, Tuesday, 14th Sept., 1852.

(500 Copies.)

HON. MR. HINCKS.

S. Derbishire & G. Desbarats, Queen's Printer.

(57)

B I L L .

An Act to establish a Consolidated Municipal Loan Fund for Upper Canada.

5 **W**HEREAS it would greatly facilitate the borrowing, upon
advantageous terms, of such sums as may be required
by any County, City, Town or Township Municipality in
Upper Canada, for effecting or aiding in effecting important
Works calculated to benefit such County, City, Town or
Township, that such sums should be raised by Debentures
issued upon the credit of a Consolidated Municipal Loan
Fund under the management of the Provincial Government,
instead of being raised upon the separate credit of each
individual Municipality : Be it therefore enacted, &c.

Preamble.

That there shall be a Consolidated Municipal Loan Fund
of Upper Canada, to consist of all monies which under this
Act or any other Act shall be directed to form part of the said
Fund ; and such Fund shall be managed by the Receiver
General, under the direction of the Governor of this Province
in Council, and the Books and Accounts thereof shall be kept
in his Office.

Consolidated
Municipal
Loan Fund
Established.

II. And be it enacted, That it shall be lawful for the
Corporation of any County, City, Incorporated Town or Town-
ship by By-law to authorize any sum of money to be raised
on the credit of the said Consolidated Municipal Loan Fund,
and to appropriate such sum or so much thereof as may be
found requisite, to defray the expense of building or improving
any Gaol or Court House for the use of such Municipality, or
for acquiring, making, constructing or completing, or assisting
in the making, construction or completion of any Rail-road,
Canal or Harbour, within or without the Municipality, but the
acquisition, making or construction whereof will benefit the
inhabitants of such County, City, Town or Township, and by
such By-law to declare the purposes to which the sum so to be
raised shall be applied, and to make such other provisions as
may be requisite for ensuring the due application of such
money, and the attainment of the objects contemplated by
such By-law.

Municipalities
may borrow
money on the
credit of such
Fund for cer-
tain purposes.

1. The assistance of any such Municipality may be granted
towards making, constructing, or completing any Rail-road,
Canal or Harbour, either by subscribing on behalf of the
Municipality for Stock in any Company incorporated for
making, constructing or completing the same, or by loaning
money to such Company, in which case the security to be
taken from the Company and the other terms of the loan shall
be mentioned in the By-law.

How a Muni-
cipality may
assist in any
undertaking.

What provisions the By-law must contain.

2. The By-law shall recite that the loan is to be raised under the provisions of this Act, and shall express the term for which the loan is required, which shall not in any case exceed *thirty* years, nor be less than *five* years :

Further provisions required in By-law.

3. If the By-law be passed by a County Council, it shall also provide what proportion of the principal and interest of any such loan is to be paid by each Township or Incorporated Town in such County, if the purpose for which the loan is to be raised be not a Gaol or Court House, and it shall appear to the Council that the several Townships, Incorporated Towns or Villages, will be benefitted by the loan in different proportions ; but if the loan be raised for a Gaol or Court House, or for any purpose by which the several Townships, Incorporated Towns or Villages will be benefitted in equal or nearly equal proportions, then it shall be so declared in the By-law, and the County Treasurer shall each year apportion the amount to be paid by each, according to the amount of property returned upon the Assessment Rolls of such Townships, Towns and Villages respectively, for the financial year next preceding that for which the apportionment is to be made. 20

By-law to be subject to approval of Governor in Council, &c.

4. The By-law and all the provisions thereof shall be subject to the approval of the Governor in Council, and shall have no force until such approval shall have been given ; but shall not be subject to any confirmation by the inhabitants of the Municipality or any majority or other number of them ; nor shall any such By-law be subject to the special provisions made by the Upper Canada Municipal Corporations Act of one thousand eight hundred and forty-nine, or by any Act amending the same, concerning By-laws creating debts, or to any provisions or formalities, except those prescribed by the said Acts with regard to By-laws generally, and those prescribed by this Act. 25 30

To be published before passing.

5. Such By-law, or every material provision thereof, shall be published for the information of the Rate-payers, at least one month before the final passing thereof, in some newspaper published weekly or oftener, within the territorial jurisdiction of the municipality, or if there be no such newspaper published within such jurisdiction, then in some newspaper published in the place nearest to such jurisdiction, with a notice, signed by the Clerk of the Municipality, signifying that it is a true copy of a By-law which will be taken into consideration by the Council of the Municipality after the expiration of one month from the first publication thereof in such newspaper, the date of which first publication shall be mentioned in such notice. 35 40

Information to be furnished to Governor.

6. Before such By-law shall be approved by the Governor in Council, proof shall be made to his satisfaction, that the By-law was published and notice given as hereinbefore required, and he shall be furnished with a statement certified under oath by the Treasurer of the Municipality, shewing the amount of taxable property therein according to the then 45 50

last Assessment Rolls, and a true account of all the debts and liabilities of the Municipality and of its expenditure for every purpose for the then last year.

III. And be it enacted, That it shall be lawful for the
 5 Governor in Council to require from the Municipality by the Council whereof any such By-law shall have been passed, all such documents and information as he may think necessary for ascertaining the expediency or in expediency of such By-law, or any of the provisions thereof, and the same shall be furnished
 10 accordingly by the proper Officers of such Municipality, and no such By-law shall be repealed, amended or altered, otherwise than by another By-law approved in like manner by the Governor in Council, and to which all the provisions of this Act shall apply, as to the original By-law.

Governor in Council may demand further information from Municipality.

15 1. So soon as the By-law shall have been approved as aforesaid, it shall be lawful for the Receiver General to raise by loan, by Debentures issued by him upon the credit of the said Consolidated Municipal Loan Fund, a sum of money not exceeding that authorized by such By-law, and to pay over
 20 such sum to the Treasurer of the Municipality, or to deliver to him, or to his order, Debentures secured upon the said Fund to a like amount, or to pay part of such sum in money to the Treasurer, and to deliver to him Debentures for part; and in any case, he shall enter the amount for which Debentures
 25 are issued and delivered, to the Debit of the Municipality as so much due by it to the said Fund

Receiver General to issue Debentures, &c.

2. The principal and interest of the Debentures so issued may be made payable at any place within or without this Province in currency or in sterling money or in the currency of the
 30 place where they shall be made payable; and such Debentures shall be in such form as the Governor in Council shall direct, subject to the following provisions :

Form of Debentures, &c.

3. They shall express upon their face that the Provincial Government undertakes to pay the principal sum mentioned
 35 in them and the interest thereon, out of the monies forming part of the said Consolidated Municipal Loan Fund, and out of no other monies or funds whatsoever :

Form of Debentures.

4. The principal shall be made payable at the time provided by the By-law, and the Debentures shall contain no provisions
 40 inconsistent with the By-law by which the loan is authorized, and they shall contain all such provisions as may be necessary to carry out the intentions of such By-law :

Form of Debentures.

5. The rate of interest upon them shall in no case exceed six per centum per annum, and such interest shall be made
 45 payable half yearly on such days in each year as shall be therein appointed for the purpose; but if any Debenture be issued within the three months next before any such day, then the first interest thereon may be made payable on that one of

Rate of interest, and terms at which payable.

the half yearly days which shall come next after the expiration of three months from the date of its issue :

To be for even sums.

6. They shall be for even sums of money and no Debenture shall be for a less sum than twenty-five pounds, or the equivalent thereof.

5

To contain provisions as to calling them in.

7. They shall contain such conditions as the Governor shall from time to time, by order in Council, direct to be inserted therein, as to the right of the Receiver General to call such Debentures or any of them in for payment before the time therein absolutely appointed for the payment of the principal,—the manner in which they shall be so called in,—and in which it shall be determined which of such Debentures shall be so called in at any time, if they be not all called in at the same time ; and no interest shall be payable upon any Debenture which shall have been called in according to such conditions as aforesaid, for any period after the day on which it shall have been required to be presented for payment, which day shall always be one of those on which interest is payable on such Debentures ; and this forfeiture of interest in the last mentioned shall be expressed on the face of the Debenture.

Form of Debentures.

8. It shall not be necessary that any Debenture should show upon what By-law or with reference to what Municipality it was issued, but each Debenture shall be distinguished by a number by which it shall be known and referred to.

Exchanging Debentures.

9. The Governor in Council may direct that any such Debentures may on the application of the holders thereof be exchanged for another or others for the same amount of principal, payable absolutely at the same or any later date, and bearing the same or any less rate of interest.

Advances to the said Fund from the Upper Canada Building Fund.

IV. And be it enacted, That it shall be lawful for the Governor in Council from time to time, and when it shall be necessary to enable the said Consolidated Municipal Loan Fund, to meet the charges upon it, to direct the Receiver General to advance to the said Fund, out of any unappropriated monies forming part of the Fund arising out of monies levied or to be levied under the authority of the Act passed in the session held in the 13th and 14th years of Her Majesty's Reign, and intituled, *An Act to provide funds for defraying the cost of the erection of the Lunatic Asylum and other Public Buildings in Upper Canada*, and known as the Upper Canada Building Fund, such sum as maybe deemed expedient, and in like manner to direct the repayment of such sum from the said Consolidated Municipal Loan Fund to the said Upper Canada Building Fund.

45

Account to be kept by Receiver Gen-

V. And be it enacted, That the Receiver General and the Treasurer of the Municipality, shall respectively keep a correct account between the Municipality and the said

Consolidated Municipal Loan Fund, debiting the Municipality with the principal of each Debenture issued for its purposes, and with the interest thereon as the same becomes due, and any other expenses or liabilities incurred by reason of such Debentures, and crediting it by the sums paid over to the Receiver General to meet such principal and interest, the proportionate share of the Municipality in the proceeds of any monies forming part of the Sinking Fund hereafter mentioned and invested by the Receiver General, and by any other sums received by him on account of the Municipality; and it shall be the duty of the Receiver General, three months before each day in each year in which interest or principal will be payable on the Debentures issued for the purposes of any Municipality, to notify to the Treasurer thereof, by letter sent by Post, the sum which he will, under the provisions of this Act, be required to pay over to the Receiver General by reason of such Debentures, which sum it shall be the duty of such Treasurer to pay over accordingly; but the failure on the part of the Receiver General to give such notice shall not affect the obligation of the Treasurer or of the Municipality, to pay over such sum at the time when it ought to be so paid over.

1. The sum to be so paid at any time by the Treasurer for his Municipality shall be at the rate of *eight* per centum per annum on the amount of the Debentures issued for the Loan in respect of which the payment is made, for the period to which the payment shall relate, and such further sum as may be payable on the day in question for or on account of the principal of such Debentures, less such sum applicable to the payment of such principal as may then stand at the credit of the Municipality in account with the said Fund: and such payments shall continue to be made until all such Debentures shall be paid off in principal and interest, or until there be a sufficient sum at the credit of the Municipality to pay off the same.

2. If the Treasurer shall have any of such Debentures in his hands as the property of his Municipality, then the proper Coupons for interest on such Debentures may be taken from him by the Receiver General as money.

3. The difference between the said rate of *eight* per cent and the actual interest payable on the Debentures, and all other monies which shall come into the hands of the Receiver General, as part of the said Fund, and shall not be required to pay the interest of Debentures chargeable upon it, shall form a Sinking Fund, and shall be from time to time invested by the Receiver General under the direction of the Governor in Council, and the amount thereof shall, with the proceeds of such investment (which shall also form part of the said Sinking Fund) be applied under such direction as aforesaid, to the redemption of Debentures issued on the credit of the said Municipal Loan Fund; and each Municipality shall be credited with a share of the said Sinking Fund equal to the amount of

equal with the Municipality.

Payments to be at the Rate of 8 per cent. per annum on the Loan, &c.

Coupons to be taken as money.

Sinking Fund constituted: of what it shall consist.

Share of each Municipality in Sinking Fund.

the sums it shall have paid into the same, and with a share of the proceeds of any part of the said Fund invested by the Receiver General proportionate to the sums it shall have paid into the same and the time during which such sums shall have remained in the said Sinking Fund, and such share shall be accordingly applied to the redemption of the Debentures issued for the purposes of such Municipality: and each Municipality shall be debited with all sums paid out of the said Sinking Fund on its account.

Certain payments may be made out of it.

4. It shall be lawful for the Receiver General to pay the interest 10 on any Debenture out of the said Sinking Fund, if in any case the other monies at his disposal for the purpose shall be insufficient, repaying the amount so paid *with interest*, to the said Sinking Fund, out of the monies which would otherwise be applicable to the payment of such interest so soon as the 15 same shall come into his hands.

Securities forming part of it may be sold.

5. It shall be lawful for the Receiver General from time to time to sell, pledge or otherwise dispose of any securities in which any part of the Sinking Fund may have been invested, in case it shall be necessary so to do in order to enable him 20 to pay any sum which is hereby made payable out of the said Sinking Fund.

Duty of the Treasurer and Officers of the Municipality after the passing of any such By-law in levying money to meet payments to be made in consequence thereof.

VI. And be it enacted, That whenever a By-law authorizing the raising of money by loan, under this Act, shall have been passed by the Council of any Municipality, and 25 approved by the Governor in Council, the Treasurer of such Municipality shall *ipso facto*, and without requiring any other authority or direction whatever, have full power, and it shall be his duty, before the making out of the ordinary Collectors' Rolls in each year, if the By-law shall then be in force, and if not, 30 then at least *three* months before the earliest day on which interest can be payable on any Debenture issued under such By-law, to ascertain the highest sum which can be required during the year, to pay the interest (and the principal if any be payable,) on or of Debentures issued or to be issued 35 under such By-law, and to add ten per centum thereunto for losses and expenses, and to certify the amount in a notice to the Clerk of the Municipality, or if such Municipality be a County, then to certify to the Clerk of each Town- 40 ship or Incorporated Town or Village therein, the portion payable by the same; and it shall be the duty of such Clerk to assess the amount so certified equally upon all the taxable property in his Municipality, and to set down on the ordinary Collectors' Roll for the year, if it shall not have been previously delivered to the Collectors, the amount with which 45 each party or lot is chargeable, under the head of "Loan Rate for (*naming the purpose*)" or "County Loan Rate for (*naming the purpose*)," as the case may be; and if such amount shall be so certified to any such Clerk after the time 50 in any year when the Collectors' Rolls shall have been delivered to the Collectors, then such Clerk shall forthwith make out a special Collectors' Roll for the purpose in the form

prescribed for ordinary Collectors' Rolls, so far as such form may be applicable, and shall deliver the same to the Collector: Provided always, that if there be in the hands of the Treasurer at the time of his giving such notice as aforesaid to the Clerk of the Municipality, any monies applicable to the payment of the principal or interest of the Debentures to which such notice refers, then the Treasurer may deduct such sum from that to which the notice refers before adding the ten per cent thereto; And provided also, that if the purpose for which the loan is raised be such as to produce profit or to yield return in money to the Municipality, or if the money be loaned by is so as to produce interest, or if the capital be reimbursable to the Municipality, then it shall be lawful for the Treasurer and the Mayor, or Head of such Municipality to enter upon the Books of the Corporation, a Certificate signed by them in the form of the Schedule A. setting forth that there ought to be paid to the Municipality during the course of the year, such dividends or profits (*describing them*) or such interest or sums of money (*mentioning the amount*) or both (*as the case may be*), and that the said Treasurer and Mayor have reason to believe and do believe that the sums which will, from the said sources, come into the hands of the Treasurer during the year, will amount to the sum of (*naming it*) and the Treasurer may then deduct the sum mentioned in such Certificate from that to which the notice refers, before adding the ten per cent as aforesaid, or if the sum mentioned in the Certificate be as great or greater than that to which the notice would refer, then no notice shall at that time be given to the Clerk or Clerks of the Municipality or Municipalities concerned.

1. If the nett sum raised by any such rate as last aforesaid be greater than that required to enable the Treasurer to pay the Receiver General, the surplus shall remain in the hands of the Treasurer and be applicable to payments to be made to the Receiver General for the next ensuing year, on account of the same loan; and if the nett sum raised be insufficient to enable the Treasurer to pay the required sum to the Receiver General, then a new assessment shall be made as hereinafter provided in cases of deficiency.

2. All sums of money coming to the Municipality as the profits, dividends or returns from any work for which the loan shall have been authorized, or as interest or principal of any sum lent by the Municipality out of such loan, or otherwise howsoever by reason of such loan, shall be paid into the hands of the Treasurer and by him carefully kept apart from all other monies, and paid over from time to time to the Receiver General, to be by him placed to the credit of the Municipality with the said Consolidated Municipal Loan Fund, except in so far as it shall be otherwise especially provided in the By-law authorizing such loan.

Proviso.

Proviso.

If the money borrowed be so invested as to produce returns.

If any surplus be raised.

If there be a deficiency.

All profits from works, &c., to go to the said Fund.

Proceeding
for levying
money
in case the
Treasurer
shall not have
funds to make
his payments
to the Receiver
General.

3. If it shall happen that the sum which ought under this Act to be paid over at any time by the Treasurer of any Municipality to the Receiver General, or any part of such sum, shall not be so paid over, and the Treasurer shall not have money in his hands applicable to the same, or if it shall happen that the 5
Treasurer shall foresee that he will not have the means of paying over such sum or part thereof to the Receiver General, at the time when it ought to be so paid over, then in either case it shall be the duty of such Treasurer forthwith to add ten per centum to the sum wanting for such purpose, and to 10
certify the same to the Clerk of his Municipality, or if such Municipality be a County, then to certify to the Clerk of each Township or Incorporated Town or Village therein, the amount payable by the same, and it shall be the duty of each Clerk receiving such notice forthwith to make out a Special Col- 15
lectors' Roll for the amount so certified to him, and to deliver the same to the Collectors.

Interest to be
charged to
Municipality
in default.

4. If any sum payable as aforesaid at any time by any Treasurer to the Receiver General, be not so paid at such time, interest shall by the Receiver General be charged on such 20
sum for the time it shall remain unpaid, against the Municipality in account with the said Consolidated Municipal Loan Fund, and deducted from the share of such Municipality in the Sinking Fund.

Monies to be
collected in
the usual man-
ner.

5. The sums entered in any Collectors' Roll by any Clerk 25
of a Municipality shall be collected and levied, and payment thereof secured and enforced in like manner and under the same provisions as other Municipal taxes, but the nett proceeds thereof shall be applied by the Treasurer solely to the purpose for which they are directed to be raised. 30

Warrant to
the Sheriff to
levy upon
Municipality
in default
more than
months.

VIII. And be it enacted, That if any sum of money which ought under this Act to be paid by the Treasurer of any Municipality to the Receiver General, shall remain unpaid during 35
months or upwards after it ought to have been so paid, then upon the certificate of the Receiver General that such sum 35
is so due and unpaid, and since what day it has been so, it shall be lawful for the Governor to issue his Warrant to the Sheriff of the County reciting the facts, and commanding him forthwith to levy such sum by rate, with interest from the said 40
day and all costs, and to pay over the said sum and costs 40
to the Receiver General, and the said Sheriff shall obey the said Warrant and levy the sums therein mentioned in like manner and within the same delay as he would levy the same if it had been recovered against the Municipality under a judgment of the proper Court of law, and a Writ of Exe- 45
cution had issued thereupon directed to him and commanding him to levy the same by rate, and shall pay over the nett proceeds to the Receiver General ; and the costs allowed to the said Sheriff for executing the said Warrant shall be the

same as those to which he would be entitled for executing a Writ of Execution for a like sum.

IX. And be it enacted, That after any Municipality shall have borrowed any money under this Act, it shall not be lawful for such Municipality to contract any further debt without the consent and approval of the Governor in Council, until all debts contracted by it under this Act shall be wholly paid off.

Further debt not to be contracted without sanction of Governor in Council.

X. And be it enacted, That the word "Treasurer," in this Act, shall include the Chamberlain of any City; the word "Mayor" shall include the Warden of any County, and the official title of any Officer shall include any person by whom his duties may be legally performed; and that this Act shall apply only to Municipalities in Upper Canada.

Interpretation.

SCHEDULE A.

CERTIFICATE OF TREASURER AND MAYOR, OR HEAD OF A MUNICIPALITY.

Municipality of the *Township* of

15 We certify to all whom it may concern, That out of the Loan, raised under the By-Law, No. , intituled, "*(Title of By-Law,)*" on the credit of the CONSOLIDATED MUNICIPAL LOAN FUND, there has been invested the sum of

20 in shares of the stock of the *Montreal and Kingston Railroad Company (or as the case may be)*; that this Municipality now holds the said shares; that there ought to be paid dividends thereon during the present year, and that we have reason to believe and do believe that there will be paid into the hands of the Treasurer, as and for such dividends, before the thirty-

25 first day of December now next, the sum of

which sum, we think, ought therefore, under the provisions of the Act passed, &c., (*title and date of this Act,*) to be deducted from the sum which ought otherwise now to be raised on the taxable property in this Municipality in order to enable the

30 Treasurer to meet the payments which he is to make to the Receiver General during the present year, on account of the said Loan. Witness our hands this day of 18

Signatures,

A. B., Treasurer.
C. D., Mayor.