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No. 86.

1st. Session, 5th Parliament, 18th Victoria, 1854.

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 first time, Friday, 29th
Sept. 1854.

Second Reading, Friday, 6th Oct., 1854.

Mr. LEMIEUX.

QUEBEC :

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(86)

1854.]

BILL.

[No. 86.

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 Mariner's Chapel, save and except outhouses 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, jamps and basement (*appui*) of the windows and doors, should incur a penalty of five pounds currency, with costs, for each offence and for each day that such cause of offence should continue to exist; and that from and after

Preamble.

Ordinance 3 & 4 Vic. cap. 35 cited.

By-law of city for preventing fires cited.

the day of the passing of the said By-law, no roof, clap-boarding or water-spout of any house or other building situated within the limits of the said Wards or portions of Wards, should be made of wood or other combustible matter, or if such wooden roof, clap-boarding or water-spout were already made, such roof, clap-boarding 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; and that at the expiration of ten years from the day of the passing of the 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 contravening the said clause, should incur a penalty of five pounds 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-engines used in manufactories, breweries, tanneries, foundries, distilleries, factories and shops of all kinds without exception, then existing, or which might hereafter 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 that in the construction of such rooms no wood of any kind should be used 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 person contravening the said clause should pay a penalty of five pounds 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 to provide for the construction of dwellings in such way as to diminish 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 receive fire, or in which fire may be placed or kindled, unless the four walls of such house, dwelling, or building should be constructed of stone, brick, or other incombustible materials, or unless the covering should be entirely composed or re-covered with tile, tin, sheet iron, or other uninflamable materials; and that in all buildings covered with metal, the lower surface of that part of the wooden roof which projects beyond the 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 front and rear, which should project at least nine inches beyond the walls of the building; that all hangars, out-houses, stables, work-shops or other buildings, the highest part of which should exceed fifteen feet, should be constructed in strict conformity with the said By-law; that all similar buildings of at least fifteen feet in height should, nevertheless, 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

By-laws for preventing fires passed 8th July 1854, cited.

to 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 Quebec should
 5 be lathed and plastered at least one inch in thickness, on the 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
 10 should have full force and effect from the date of its adoption throughout 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
 15 street, should be nevertheless observed; and that any undertaker, mason, carpenter or 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 provisions of the said By-laws, so made by the Council of
 20 the said City of 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 community of the said City and of the environs thereof,
 25 persons holding property *par bail Emphyteotique* are compelled to make alterations and ameliorations 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 proprietor of the land, and which, though
 30 made at the cost and expense of the lessee enure, eventually, at the termination of the lease, to the benefit of the lessor, or according to the terms of the lease; And whereas it is right and just that the party receiving such benefit and advantages 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
 35 derived or obtained: Be it therefore enacted, &c., as follows:

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

Lessee entitled to compensation for the additional value given to property by improvements made under said By-laws.

II. In order to ascertain the just amount of such additional value, each
 50 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 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;
 55 and the Arbitrators so named by the parties, or by one of the parties and

Amount of compensation to be settled by arbitration.

Appeals in
certain cases.

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, or of a majority of them, 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
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Lessor continuing lease for ever, not entitled to compensation.

III. The owner or lessor of land so held under Emphyteotic lease shall not be held or bound to make compensation to the lessee for or by reason of the changes or improvements aforesaid, if the said owner or lessor shall consent to continue the said lease forever, or at least for a period of ninety-nine years. 15

Extent of this Act.

IV. 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.