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No. 187.

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

BILL.

An Act to facilitate the winding up of
the affairs of the Mutual Fire Assur-
ance Company of the County of Mon-
treal.

Received and read a first time, Thursday, 28th
October, 1852.

Second reading, Tuesday, 2nd November, 1852.

MR. CARTIER.

QUEBEC :

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

(187)

B I L L .

An Act to facilitate the winding up of the affairs of the Mutual Fire Assurance Company of the County of Montreal.

WHEREAS the Mutual Fire Assurance Company of the County of Montreal, established under the authority of an Act of the Legislature of the late Province of Lower Canada, passed in the fourth year of the Reign of His late Majesty William the Fourth, intitled, "*An Act to authorize the establishment of Mutual Fire Insurance Companies,*" and recognized under the name aforesaid by an Act passed in the fourth and fifth years of Her Majesty's Reign, intitled, "*An Act to amend an Act of the Legislature of Lower Canada relative to the establishment of Mutual Fire Insurance Companies,*" have by their petition represented that the losses by them sustained in consequence of the destruction by fire in the course of the present year (1852) of a large amount of property by them assured in the City of Montreal, greatly exceeding the capital which is at present or could be at any future period at the disposal of the said Company, or deposited in their hands under the authority of the various laws relative to their establishment and existence; that being thus able to meet these losses in part only, in consequence of the insufficiency of the said funds; the interest and security of all the parties concerned require that the dissolution of the said Company and the winding up of their affairs should be effected as speedily as possible, and in order to attain that end in the manner least prejudicial to the interests of the said interested parties, it is necessary for the said Company to acquire more ample Legislative provisions, those, at present in force, in so far as regards the said Company being in this respect defective; Be it therefore enacted, &c.,

And it is hereby enacted, That from and after the date of the passing of this Act it shall not be lawful for the said Company to assure property belonging to any party whomsoever : but all property which up to that period shall have been assured in the office of the said Company shall, notwithstanding the foregoing enactment continue to be so assured (to all intents and purposes whatsoever as if this Act had never been passed) and so continue during the entire period stipulated in the policy of Assurance thereof, or until the dissolution of the said Company shall have been pronounced, in the manner hereinafter provided, or until the member of the said Com-

pany to whom the said policy relates shall have legally ceased to be a member of the said Company, or shall have legally retired from the said Company by the expiration of the said policy in conformity with the provisions of an Act of the said Legislature of the heretofore Province of Lower Canada, passed in the sixth year of the Reign of His late Majesty William the Fourth, and intituled, "*An Act to continue for a limited time, and to amend a certain Act therein mentioned, relative to the establishment of Mutual Fire Insurance Companies.*" 5

II. And be it enacted, That the annual election of Directors of the said Company shall not hereafter be held on the first Monday in October, but that the persons who shall at the time of the passing of this Act compose the Board of Directors of the said Company shall, throughout the entire future duration of the said Company, continue to be the Directors for all purposes whatsoever, as also any person who, in case of a vacancy occurring in the said office, shall hereafter be appointed a Director of the said Company, in the cases provided for by the sixth Section of the Act first hereinbefore cited, which said Directors so continuing in office shall have the same rights and powers, as they would have had, if they had as heretofore been elected at an annual meeting of the members of the said Company. 10 15 20

III. And whereas it is for the interest of all parties concerned that the winding up of the affairs of the said Company be rendered as advantageous as possible, and that in order thereto, it is expedient to authorize the Directors of the said Company, in certain cases, to grant to parties indebted to the said Company a reasonable delay, in order thereby to facilitate their means of paying to the said Company the amount due upon all their premium notes deposited in the office of the said Company, and which are now due and payable, and also the sum of ten shillings currency, on every hundred pounds of the amount assured in the office of the said Company; Be it enacted, and it is hereby enacted that the said Directors shall have discretionary power to grant to any party indebted to the said Company, in order to the payment of his debt, when they shall consider it in the interest of the Company so to do, such delay (not exceeding in any case the period of twelve months to be computed from the 4th day of October, 1852,) as shall appear to them reasonable to allow, subject to the condition if required by the said Directors, that the said debt shall be paid by instalments, and that in such case, in default of payment at the stated period of any of the said instalments, the total amount of the said debt, or so much thereof as shall remain due at any of the said periods shall become due and payable as if such delay had never been allowed; and the said Directors in granting such delay as aforesaid, shall have the right to stipulate with the said debtor, that he shall be bound to pay 25 30 35 40 45

interest at the rate of six per cent. upon the amount of his debt to the said Company to be computed from the date of such stipulation.

IV. And be it enacted, That notwithstanding any of the provi-

5 sions contained in the preceding Section of this Act, or in any
 other Act or law whatsoever, the rights of the said Company
 against all its debtors and indorsers or the securities of the latter
 and more especially against all its said debtors to whom delay shall
 have been granted as hereinbefore allowed, and against all the
 10 indorsers or securities of such debtors, as also the privileges and
 hypothecs of the said Company upon the property of every such
 debtor, and upon the property of each one of the said securities and
 endorsers in virtue of existing laws, and especially by virtue of the
 provisions of the ninth Section of the said hereinbefore cited Act,
 15 passed in the fourth year of the reign of his late Majesty King
 William the fourth, as modified by the provisions of the seventh
 Section of the said hereinabove cited Act, passed in the sixth year
 of the same reign, for the guarantee of the payment of any debt
 whatsoever of all and every such debtor to the said Company, due
 20 both before and after the passing of this Act, shall for all purposes
 whatsoever be maintained and remain in full force, both as regards
 every such debtor and each one of his securities and indorsers, and
 also as regards every other party whatsoever, in the same manner
 as if the said rights, privileges and hypothecs had been specially
 25 granted by this Act.

V. And be it enacted, That no one of the said indorsers or
 securities of any debtor mentioned in the preceding Sections, shall
 be entitled or shall have the right by reason of the delay granted to
 the said debtor by the Directors of the said Company, under the
 30 authority of the third Section of this Act, to plead either prescrip-
 tion, or that the said debtor has become insolvent during the period
 of the said delay against the said Company, or their assigns, for
 the purpose of invalidating his indorsement or security in favor of
 such debtor.

35 VI. And be it enacted, That when, in the opinion of the
 Directors of the said Company, the time for so doing shall have
 arrived, they shall present a petition to the Superior Court, sitting
 in the District of Montreal (the said petition being accompanied by
 a report or exact statement of the affairs of the said Company),
 40 representing, that, in the opinion of the Petitioners, there is no
 further necessity for carrying on the administration of the affairs of
 the said Company ; that the time has arrived, when, for the interest
 of all parties concerned, the said Company should be dissolved, and
 if necessary, that the liberation of the said Directors of the said
 45 Company, and also, in the discretion of the Court, that of any other
 party whatsoever, should be definitely pronounced.

VII. And be it enacted, That on the presentation of the petition mentioned in the preceding Section, the said Court shall order, on the application of the Petitioners, a call to be made of the creditors of the said Company, and of all other parties interested in the affairs thereof, by a judgment rendered upon the said petition by the said Court, and inserted under the signature of the clerk thereof at least four times in the course of two months in two newspapers published in the said City of Montreal, one in the French language and the other in the English language, requiring the creditors of the said Company, or any other party interested in the affairs of the said Company, to file in the office of the said Court, in the said City of Montreal, on or before the day which shall be fixed for that purpose in the said judgment, any claim they may have to make against the said Company or against their estate either moveable or immoveable ; and upon this proceeding founded upon the said petition, the said Court shall proceed to hear and decide upon the respective rights and pretensions of the parties, as in any other case of a like nature brought before it according to the ordinary course of law and practice ; and when, in the opinion of the said Court, it shall be necessary so to do, it shall render its judgment, pronouncing the dissolution of the said Company according to the provisions of, and with the results provided by this Act.

VIII. And be it enacted, That upon the rendering of the said account, the said Court shall be empowered at any time to order, if it shall think proper so to do, that the balance thereof be deposited by the said Directors or by the Secretary-Treasurer of the said Company, in the office of the said Court, in order to its being thereafter disposed of in favor of the party entitled thereto, the amount of which balance shall be stated in the above mentioned judgment of the said Court.

IX. And be it declared and enacted, That none of the provisions contained in the preceding Sections, shall extend or be construed to extend to deprive the Directors of the said Company, of the power to determine, declare and pay dividends and apportionments out of the funds at their disposal, as heretofore, which dividends or apportionments, it shall be their duty to determine, declare and pay, as frequently as possible, as fast as the said funds will permit, and in the manner and form which they shall consider most expedient, in order to facilitate the settlement of the affairs of the said Company and to satisfy the claims existing against it.

X. And be it enacted, That the notice given by the said Company and published by it under the signature of the President and Secretary thereof, and bearing date the 16th October last, in two newspapers published in the City of Montreal, and entitled respectively *La Minerve* and the *Montreal Herald*, shall for all purposes what-

soever be deemed to be the public notice required in like cases by the eighth Section of the said Act hereinbefore cited, passed in the sixth year of the reign of His Majesty King William the Fourth, and shall be sufficient to produce the effect contemplated by the

5 said eighth Section of the Act hereinbefore last mentioned, although in fact the said notice may not have been published in the manner prescribed by the said eighth Section, that the said notice shall be evidence of its contents, and that all payments, dividends, apportionments and sums of money therein mentioned have been duly estab-

10 ished, ordained and determined by the Directors of the said Company, and that the recovery thereof may be prosecuted after the lapse of thirty days from the said first publication of the said notice in the two newspapers aforesaid ; Provided always, that any number or copy of one or other of the said two newspapers, in which

15 the said notice shall have been so published shall be authentic proof of the said publication.

XI. And be it enacted, That all summons or services having reference to the said Company in any manner whatsoever, made at the office of the said Company, speaking to any competent person

20 therein or personally to the President or Secretary Treasurer of the said Company, shall be held to be a valid service for all purposes whatsoever.

XII. And be it enacted, That this Act shall be a Public Act for

25 all purposes whatsoever.