



63 VICTORIA

CHAP. 24

An Act to amend the law respecting the construction and repair of churches, parsonages and cemeteries

[Assented to 23rd March, 1900]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

1. The following paragraph and articles are added to the Revised Statutes, after article 3434 : Par. and arts. added after R. S., 3434.

§ 3.—*Execution of certain judgments against trustees.*

“ **3434a.** When a copy of a judgment, condemning a corporation of trustees to pay a sum of money due by it upon bonds, obligations or debentures issued under legislative authority, has been served upon it, the trustees shall forthwith pay the amount thereof out of the funds at their disposal. Payment of judgment after service.

“ **3434b.** If the trustees have not sufficient money at their disposal to discharge the judgment, they shall, as soon as it has been served upon them, levy upon the freeholders bound by law to the payment of the assessment a sum sufficient to pay the amount due with interest and costs. Levy in default of funds.

“ **3434c.** The court which rendered the judgment may, on petition to that effect presented either in term or in vacation, Delay for that purpose.

grant, from time to time, to the trustees, any delay which it shall deem necessary to levy the amount of moneys required.

Writ of execution in default of payment of judgment.

"3434d. If the judgment have not been satisfied within two months after the service thereof upon the corporation of trustees, or at the expiration of the delay granted by the court, or agreed upon between the parties, the person in whose favor said judgment was rendered, may, on producing the return of the service of such judgment upon the trustees, and on a requisition in writing for such purpose, obtain the issue of a writ of execution from the court, against the corporation, returnable before the same court so soon as the amount of the judgment and costs has been levied.

Form and contents of writ.

"3434e. Such writ shall be attested and signed by the clerk or prothonotary, sealed with the seal of the court and addressed to the sheriff of the district in which is situated the parish in which the defendants are trustees, and shall enjoin such sheriff among other things :

1. To levy from the corporation of trustees, with all possible despatch, the amount of the debt with interest and costs of the judgment as well as of the execution ;

2. In default of immediate payment by the corporation :

(a) To apportion the sums to be levied on all the taxable property of the freeholders bound for the payment of the assessment in the same manner as the trustees should do, to whom he shall be *de jure* substituted for the levying of such money ;

(b) To prepare without delay a special act of assessment ;

(c) To exact and levy the sums entered in the special act of assessment within the delays prescribed for such collection when made by the trustees themselves ;

(d) In default of the payment of such amounts by the persons who are bound so to do, to levy the same with costs on their moveable property in the manner prescribed for executions against moveables ;

To sell their real estate liable for such amounts, in default of their payment in the same manner and with the same effect, as if he were acting under a writ *de terris* issued by the Superior Court of the district ;

3. To make a return to the court of the amount levied and of his proceedings, as soon as the debt, interest and costs shall have been collected, or from time to time as the court may order.

"**3434 f.** The sheriff shall be bound to execute without delay, either personally or by his officers, all the injunctions of such writ or of every other subsequent order of the court. Duties of sheriff.

"**3434 g.** The sheriff shall have free access to the registers, valuation rolls, and other documents necessary to enable him to prepare the special act of assessment, and may demand the services of any officer of such trustees to aid him in the preparation of such special act of assessment as if such services were required by the trustees themselves. Access to registers.

"**3434 h.** If it be impossible for the seizing officer to obtain the valuation roll, which should serve as a basis for the special act of assessment, or if there be no such roll, the sheriff shall, without delay, proceed to make a valuation of the taxable property of the freeholders bound for the payment of the assessment; and he is authorized to base such special act of assessment for the collection of the moneys to be levied on such valuation, as if it were the valuation roll in force. Special act of assessment.

The costs incurred in making such valuation, as taxed by the court from which the writ issued, form part of the costs of execution and shall be recoverable from the corporation of trustees. Costs.

"**3434 i.** The fees, costs and disbursements of the sheriff shall be taxed at the discretion of the judge of the court from which the writ of execution issued. How taxed.

"**3434 j.** The sheriff shall transmit a copy of his special act of assessment and any other roll or document whereof he has taken possession, to the trustees or to any other persons from whom he may have obtained the same, after having levied the whole amount set forth in the writ of execution, together with interest and costs. Return of documents after collection.

"**3434 k.** The arrears due in virtue of the special act of assessment of the sheriff, shall belong to the corporation of trustees and may be recovered by such corporation, in the same manner as any other assessment due to them. Arrears.

If any surplus remain in the hands of the sheriff, it shall belong to such corporation. Surplus.

"**3434 l.** The sheriff may obtain from the court any order calculated to facilitate and secure the complete execution of the writ addressed to him." Orders of court.

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Application
of act

2. This act shall apply to the payment of obligations, bonds and debentures already issued, as well as to the payment of those which may be hereafter issued.

Coming into
force.

3. This act shall come into force on the day of its sanction.

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Most Excellent Majesty.