

CAP. XXXVIII.

Act to incorporate the Dominion Homestead Building Society.

[Assented to 23rd December, 1871.]

Preamble.

WHEREAS the persons hereinafter named, have, by petition, represented that with a view of providing cheaper and better Homestead Dwelling Houses and other buildings for a large and eminently useful class of the community, who unaided cannot become owners absolute of houses or dwellings such as comfort, health and decency demand; and also for the construction of other good and useful works, for commercial and sanitary purposes, whereby the requirements of society will be better served, and the public health and convenience more economically than heretofore promoted and subserved, the petitioners desire to engage in the business of acquiring all such lands and building lots, and erecting, temporarily holding, and afterwards transferring or otherwise disposing of all such buildings, houses or other premises as are or may be necessary to meet the wants, or supply the requirements hereinbefore mentioned, anywhere within the province of Quebec; and whereas they desire to be enabled to make, whenever advisable, such transfer and sale without payment in cash down, that is to say, on credit or time, with entire safety; and therefore require to have certain facilities for recovering back property previously agreed to be sold, when the conditions of sale have not been performed by the intending purchaser of the said property, and that they may be enabled to do so to better advantage, by association and the aid of a charter of incorporation, and have prayed for an act to that end; and whereas it is expedient that such prayer be granted; Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

Incorporation.

1. James Ferrier, Charles J. Brydges, George Moffatt, Kenneth M. Moffatt, Robert J. Reekie, D. Lorn Macdougall, William E. Phillips, Joseph Hickson, Noel H. Bowen, and William O. Buchanan, together with all such other persons as shall become stockholders in the society hereby constituted, shall be and they are hereby made a body corporate and politic, by the name of the "Dominion Homestead Building Society."

Name.

Business of society.

2. The said society shall have power to acquire and hold by lease, purchase or other legal title any lands, building lots, houses, buildings and other premises and

appurtenances or things requisite and needful to construct, erect, build, and maintain any and all sorts of dwelling-houses and ware-houses, and to lease, sell, convey, and dispose of the same as the society may deem for its own advantage and the public good ; and also to lend one-fourth of its money in security by mortgage of real estate, provincial government bonds or other securities, or in the stock of any chartered bank within the province.

3. The capital stock of the society shall be the sum of Capital stock. five hundred thousand dollars, divided into ten thousand shares of fifty dollars each, which said capital stock may, from time to time, be increased by vote of the stockholders at any special meeting of the society called together for the purpose, to an amount not exceeding two million dollars in the whole, but only as the wants of the society may require or circumstances render advisable.

4. The capital stock shall be paid in by the subscribers Payment of instalments on shares. thereto, as the directors of the society may require or the society's by-laws provide, and if not paid on the day named, interest thereon shall, after the said day, be chargeable upon the amount due and remaining unpaid, and in case any instalment or instalments, together with the interest accrued thereon, shall not, after such demand or notice as the by-laws so provide or the directors so require, be paid within the time limited by such notice, the directors may, by vote, reciting and after duly minuting the facts in the records, summarily forfeit any shares whereon such payment is not made, and the same shall thereafter become the property of the society.

5. The stock of the society shall be deemed personal Assignment of shares. estate, and be assignable in such manner, and subject to such regulations as the society's by-laws prescribe.

6. At all meetings of the society every shareholder, not Votes of shareholders. being in arrears in respect of any instalment, shall be entitled to vote, as follows :

For each share, one vote.

No member shall, at any time, act as proxy for more than one hundred shares, in addition to his own, and all votes shall be given in person or by proxy, and provided only that such proxy is held by another shareholder and is in conformity with the by-law of the society, but voting by proxy shall not be allowed at any meeting of the directors.

7. The affairs of the society shall be administered by a Qualification, election and quorum of directors. board of five directors, holders each of at least twenty-five shares of stock, who shall be elected at the first general meeting and afterwards at each annual meeting of the so-

ciety, to hold office until their successors are elected, and who (if otherwise qualified and not forbidden by the by-laws of the society) may be re-elected, and three of such board present in person shall be a quorum thereof; and in case of the death, resignation, removal or disqualification of any director, such board shall at its first meeting thereafter, but only for the period intervening between any such appointment and the next annual meeting of the society, fill the vacancy thereby occasioned by appointing any other qualified shareholder thereto; but a failure at any time to elect directors, or any failure of directors, shall neither vitiate any legitimate proceeding nor dissolve the corporation, and an election may be made at any general meeting of the company called for the purpose.

Power of board
of directors.

8. The board of directors shall have full power in all things to administer the affairs of the society, to make or cause to be made any purchase or purchases and every description of contract which the society may lawfully make; to adopt a common seal, and make from time to time any and all by-laws necessary and not contrary to law, regulating the calling in of instalments, and the registration of certificates of stock; the forfeiture of stock for non-payment; the disposal of forfeited stock or of the proceeds thereof; the transfer of stock; the declaration and payment of dividends; the appointment, functions, duties and removal of all agents, officers and servants of the society; the security to be given by them; their remuneration; time and place for holding meetings; the calling of meetings; the requirements as to proxies; the proceedings on all things at such meetings; the imposition and recovery of all penalties and forfeitures admitting of regulation by by-law, and the conduct in all other particulars of the affairs of the society; but every such by-law, and every repeal, amendment or re-enactment thereof, shall have permanent force only after being sanctioned by a general meeting of the society, and every copy of any by-law under the seal of and signed by the proper officer of the society shall be received in all courts of law as *prima facie* evidence of such by-law, and every repeal, amendment or re-enactment aforesaid shall be submitted for such sanction at the first general meeting of the society subsequent to its adoption.

Provisional
board of direc-
tors.

9. Until the first election of such board, the said James Ferrier, Charles J. Brydges, George Moffatt, Kenneth M. Moffat, Robert J. Reekie, D. Lorn MacDougall, William E. Phillips, Joseph Hickson, Noel H. Bowen, and William O. Buchanan, or any five of their number, shall be a temporary or provisional board of directors, with full power to fill

vacancies, open stock-books, assign stock, make calls for and collect instalments, issue certificates and receipts, convene the first general meeting of the society, which such first general meeting shall be called within thirty days after the organization of the society, at such time and place within this province as they shall determine; at which meeting the by-laws of the society shall be submitted for the approval of the shareholders, and any other act necessary or proper in the way of completing the organization of the society and providing for the management of its affairs done and performed.

10. The society shall not be bound to see to the execution of any trust whether expressed, implied, or constructive in respect of any shares, and the receipts of the person in whose name the same shall stand in the book of the society shall be a discharge to the society for any dividend or other money payable in respect of such shares, whether or not notice of such trust shall have been given to the contrary, and the society shall not be bound to see to the application of the money paid upon such receipt. Society not bound to see to trusts on shares.

11. The shareholders shall not as such be held responsible for any act, default or liability whatsoever of the society, or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever, relating to or connected with the society, above or beyond the amount remaining unpaid upon their shares in the stock thereof. Liability of shareholders limited.

12. All promissory notes, bills of exchange, contracts or other engagements, made on behalf of the society by the directors, officers, agents, or servants of the society in accordance with their power under this act, and the society's own by-laws, or by direct vote of the society, shall be binding upon the society, and in no case need the seal of the society be affixed thereunto, nor shall such directors, officers, agents or servants thereof, become individually liable to any third party therefor; but the society shall issue no bank note or notes to be circulated as money. Prom. notes, &c., to be binding on society, but not on officers individually. Proviso.

13. Upon an agreement being made by the said society, for the sale of any house or other property of whatsoever kind, held by them, it shall be lawful for the said society to execute in favor of the intending purchaser, a lease of the same for the time stipulated in such agreement as the limit of the delay thereby fixed for the payment of the last instalment of the price therein agreed upon, at a rental corresponding in the amount and in the terms of payment thereof, with such price and with the terms of payment of such price, And if such lease appear by its terms to have been made under the provisions of this act, it shall not Agreements for sale to be mere leases until all conditions are fulfilled.

be held to convey to such intending purchaser any right in or to any property so intended to be sold, or any real right therein whatever, nor shall the possession thereof, by any intending purchaser, be held to be possession as proprietor: nor shall any legal or other hypothec be thereby or otherwise created thereagainst or attach thereon, notwithstanding that such lease shall contain a direct promise of sale of such property whenever, and not before the conditions thereof shall have been performed, until the sum of money stipulated for in such lease and every part and portion thereof, shall with all the interest due thereon, and all charges, conditions and obligations created by or due under any such lease shall have been fully paid, performed and fulfilled.

Fulfillment of conditions of leases shall give ownership and render valid, hypothecs, &c, previously granted by lessee.

14. If the intending purchaser or lessee under this act, accepts a lease of any property intended to be acquired by him from such society he shall make all the payments, and perform all the conditions stipulated for by such lease, and shall fulfil all the obligations thereby imposed upon him; the said lease so made and accepted shall thereupon and thereafter be held to be, and shall be equivalent to a promise of sale of such property with possession; and shall vest the same in such intending purchaser in the same manner, and to the same extent as if it were an ordinary promise of sale (*promesse de vente*); and shall give the right to the holder thereof, to demand and receive from the said society a valid deed of sale of the property described therein, containing warranty of title, and against all charges thereon other than those disclosed and agreed to be permitted to remain thereon; and all hypothecs and privileges, whether conventional or legal, created by the intending purchaser during the pendency of the said lease, shall immediately thereupon attach to such property according to their rank and privilege, and the date of their enregistration in the same manner as if the same had been the property of such intending purchaser from the date of such lease.

Society after notice given may retake property for non-payment of instalments, upon reimbursing money paid less certain deductions.

15. If at any time three months' arrears of instalments, stipulated for in any such lease, shall become due, and shall remain unpaid, the said society shall have the right to retake possession of the property so promised to be sold, upon giving to the intended purchaser or lessee thereof twenty days' notice to vacate and deliver back the same, and tendering to him the amount by him actually paid on account of the instalments agreed upon in said lease, after the deduction therefrom of interest at the rate of ten per centum per annum, on the price agreed upon remaining unpaid each year, for the time during which

the premises agreed to be sold remained in the occupation of the intending purchaser, by way of rent, for the use and occupation of such premises; and of ten per centum of the amount actually paid in, to be retained as a forfeiture and penalty for non-performance of conditions of lease or agreement of purchase, of the cost of such tender, of the expense of repairs, and restoring all deteriorations done to or sustained by the premises so intended to be sold, reasonable wear and tear alone excepted, and all taxes, charges, assessments, or other dues which attach thereto, by the occupation thereof by the intending purchaser or lessee, and which shall remain then unpaid or unfulfilled; all which charges and deductions shall be a first and privileged charge upon the amounts so actually paid in by him.

But if the instalments payable annually, under such lease, shall amount to less than ten per centum upon such price, then and in that case the amount to be deducted for rental shall be the amount of instalments stipulated for in such lease. Proviso.

16. If at the end of twenty days after service of such notice and tender, the intending purchaser or lessee, shall not vacate and deliver back to the said society, the premises or property, so intended to be bought by him, then the said society shall have the right to cause him to be ejected therefrom by proceedings to be taken under the provisions of the first chapter of the second title of the second book of the code of civil procedure of Lower Canada, commencing with article 887, in the same manner and with the same delays in all respect, as if such lease were an ordinary lease; save and except only that the jurisdiction of the court, which shall have the right to hear and determine such proceedings, shall be ascertained, regulated and established by the amount which shall have been actually paid to the said society under such lease; and not by either the amount due or to become due, or that of the damages alleged. And the cost awarded to the said society, in any action instituted under this act, shall also be a charge upon and be deducted from the amount of money actually paid in by any intending purchaser or lessee. Proceedings to recover possession of property.
Costs.

17. Any tender made by the said society, shall be held to be sufficiently made, if the society shall have *bonâ-fide*, used diligence to ascertain the amount which they shall be entitled to retain out of the purchase money paid in by the intending purchaser, notwithstanding that the amount tendered, may not be precisely that which should have been so tendered according to the provisions hereof, and in such case the society and the intending purchaser, shall have the right to recover each from the other, the amount which may have been over or under estimated and tendered. What shall be deemed a sufficient tender.

Recourse of
society if
sum paid be
insufficient to
meet charges.

Proviso.

Commence-
ment of opera-
tions.

How society
may close busi-
ness and wind
up.

Previous notice
of general
meetings.

18. In the event of the surrender of any property so leased as aforesaid, and of the sum of money actually paid in by the intending purchaser being insufficient to meet all the charges thereon, and deduction therefrom, hereinbefore provided for, the said society shall have the same lien, privilege or hypothec and remedies, as an ordinary lessor, upon the effects of the intending purchaser or lessee for the balance remaining due; provided always that such balance does not exceed in amount the sum chargeable against such intending purchaser by way of rent for the use and occupation of the premises intended to be sold.

19. The society shall not commence business operations under this act until one tenth part of its capital stock shall have been subscribed, and until at least fifteen thousand dollars of their capital stock shall have been paid in: provided always, that unless operations be commenced under this act within five years from the passing thereof, and continue *bonâ-fide*, this act of incorporation shall be null and void.

20. And if at any time the directors shall consider it expedient to cease carrying on the business of the said society, and to wind up and finally close the same, they shall always have the power of doing so, in such manner as they shall deem best for the interests of the stockholders, provided that in the notices calling any meeting for the purpose of considering the winding up and closing of said society and its business, such intention shall be distinctly signified to the stockholders, and the consent and confirmation of a majority of those present at any such meeting, have thereupon been deliberately given and obtained.

21. No general meeting of the society shall take place, under this act, unless a previous notice to that effect shall have been given during two weeks in two newspapers published in the district wherein the society will carry on business.

C A P. XXXIX.

An Act to correct certain errors in the English version of Chapter 46, of the 34th Victoria, concerning the "*Société de Passage du Pont Neuf de St. Hyacinthe.*"

[Assented to 23rd December, 1871.]

Preamble.

WHEREAS certain errors have crept into the English version of the act of this province, thirty-fourth Victo-