



CHAPTER 56

An Act creating the Quebec Municipal Commission

[Assented to, the 19th of February, 1932]

HIS MAJESTY, with the advice and consent of the
Legislative Council and of the Legislative Assembly
of Quebec, enacts as follows:

1. The Revised Statutes, 1925, are amended by adding R. S., c.
thereto, after Chapter 111 thereof, the following: 111A, added.

"CHAPTER 111A

"AN ACT RESPECTING THE COMMISSION FOR THE SUPER- VISION AND CONTROL OF MUNICIPAL AND SCHOOL CORPORATIONS

"**1.** This act may be cited as the *Quebec Municipal Commission Act*. Short title.

"DIVISION I

"INTERPRETATION

"**2.** In this act, unless the context otherwise requires: Interpretation:

1. The word "Commission" designates the Quebec Municipal Commission established under this act; "Commission";
2. The word "Minister" designates the Minister of Municipal Affairs; "Minister";
3. The word "municipality" means any municipal corporation whatsoever, whether formed or governed by a general or special act, and it also includes every corporation of school commissioners or of school trustees, the Board of Roman Catholic School Commissioners of the City of

Quebec, and, generally, every commission and every board incorporated for the administration of schools in the Province; but does not include:

Exceptions. a. The municipal corporations subject to the action of the Montreal Metropolitan Commission, incorporated by the act 11 George V, chapter 140;

b. The Montreal Catholic School Commission and the Catholic school corporations contemplated by section 2 of the act 9 George V, chapter 37, as replaced by the act 14 George V, chapter 35, section 2;

c. The Montreal Protestant Central School Board and the Protestant boards of school commissioners or of school trustees contemplated by section 2 of the act 15 George V, chapter 45;

"Municipality in default". 4. The words "municipality in default" designate a municipality within the meaning of this act which is declared to be in default under the provisions of Division V.

Interpretation.

"3. In every act, proclamation, order-in-council, instrument or document whatsoever, wherever the words "Quebec Municipal Commission" or the word "Commission", referring to the "Quebec Municipal Commission", occur, such word or words, as the case may be, shall mean the Quebec Municipal Commission.

"DIVISION II

"ORGANIZATION OF THE COMMISSION

"Quebec Municipal Commission".

"4. The Lieutenant-Governor in Council may appoint a commission called the "Quebec Municipal Commission", consisting of two members, one of whom to be designated as president.

Remuneration.

The remuneration of the members of such Commission shall be that determined by the Lieutenant-Governor in Council.

Term of office.

"5. Each member of the Commission shall hold office for ten years from the date of his appointment, but may be removed at any time for cause by the Lieutenant-Governor in Council.

Replacing of members by Lt.-Gov. in C.

"6. If any member or members of the Commission is or are unable to act by reason of sickness, absence or other cause, the Lieutenant-Governor in Council may appoint one or two persons, as the case may be, to act in the place

of such member or members; and any person so appointed may complete any unfinished business in which he has taken part, even if the member of the Commission whom he has replaced has returned or has become able to act.

"7. The Commission, in the exercise of the powers conferred upon it by this act, may investigate in any way it may deem useful, by itself, any of its members or by any person appointed by it, all matters and all facts the knowledge whereof may assist in the performance of its attributions, and, for such purpose, it shall have access, through its delegates, to the books and documents of any municipality. Investigations.

"8. When there is a difference of opinion between the members of the Commission, the question shall be referred to a member *ad hoc* appointed by the Lieutenant-Governor in Council, whose remuneration he shall determine. Such member shall decide the question submitted. Appointment, etc., of member ad hoc.

"9. The Commission shall not be dissolved by the death or resignation of any of its members. Vacancy.

"10. Neither the members nor the secretary of the Commission shall hold any office in a corporation governed by this act nor act in any capacity whatsoever for any such corporation, during their term of office. Holding of certain office prohibited.

"11. Each member of the Commission, shall, during his term of office, reside in such place as the Lieutenant-Governor in Council may, from time to time, determine. Residence.

"12. The Lieutenant-Governor in Council shall fix the place where the Commission shall sit and shall have its office, and shall also provide it with suitable quarters for the holding of its sittings and the transaction of its business generally. Sittings, etc.

"13. Whenever necessary, the Commission may sit in any part of the Province. Special sittings.

Whenever, under this section, the Commission sits at the chief place of any judicial district, the sheriff is bound to place at its disposal suitable quarters for the holding of its sittings. At chief place.

In every other place, it may have free use of the room in which a corporation governed by this act usually holds its sittings. Elsewhere.

Advisory
experts.

"14. The Lieutenant-Governor in Council may, whenever he deems it necessary, attach to the Commission experts or technical men, to assist it in an advisory capacity.

Secretary.

"15. There shall be a secretary of the Commission, who shall be appointed and whose remuneration shall be determined by the Lieutenant-Governor in Council. Such secretary shall hold office during pleasure.

Duties of
secretary.

"16. 1. It shall be the duty of the secretary,—

a. To attend all sittings of the Commission, unless excused by the Commission or the President;

b. To keep a record of all proceedings conducted before the Commission;

c. To have the custody and care of all records and documents of the Commission;

d. To obey all rules of practice and directions which may be made or given by the Commission touching his duties or office;

e. To have every order and rule of practice of the Commission drawn up pursuant to the directions of the Commission, signed by the president, and filed in the office of the secretary;

f. To discharge all other duties prescribed by the Lieutenant-Governor in Council.

Power to ad-
minister
oath.

2. The secretary shall have power to administer the oath at any investigation or with respect to any proceeding before the Commission.

Keeping of
books of
record, etc.

3. The secretary shall keep suitable books of record, in which he shall enter a true copy of every order and rule of practice, and of every other document which the Commission shall order to be entered therein; and such entry shall constitute and be the original of any such order or rule of practice after it has been signed by the president and the secretary.

Certified
copy of
orders, etc.

4. Upon application of any person, and on payment of such fees as the Lieutenant-Governor in Council may prescribe, the secretary shall deliver to such applicant a certified copy of any such order, rule of practice or other document.

Temporary
secretary.

"17. In the event of the secretary of the Commission being unable to act by reason of sickness, absence or other cause, any member of the Commission may act in his stead or the Commission may replace him temporarily by appointing another person to such office.

"18. Neither the Commission, nor any member thereof, nor the secretary of the Commission, nor any of its officers or employees, shall be personally liable for anything done or omitted by it or by him in the exercise of its or his functions. No personal liability.

"19. The Lieutenant-Governor in Council may also appoint the employees necessary for the proper performance of the duties of the Commission, and provide for their remuneration. Appointment, etc., of employees.

"20. Whenever the Commission, acting within its jurisdiction, appoints or directs any person, other than a member of its regular staff, to perform any service authorized by this act, such person shall be paid therefor such sum for services and expenses as the Lieutenant-Governor in Council may, upon the recommendation of the Commission, determine. Remuneration of certain other persons.

"21. The above remuneration, and all the expenses incurred by the Commission in the performance of its duties and attributions, including all reasonable travelling expenses actually incurred by the members of the Commission, secretary, officers and employees of the Commission, and by such members of the staff of the Commission as may be required by the Commission, shall be paid out of the consolidated revenue fund of the Province. Payment of remuneration, etc.

If the Commission, however, deems it just so to do, it may order that the expenses incurred by it in the performance of its attributions, except those relating to the salaries of the commissioners and staff, be paid, wholly or in part, by the municipality it may designate. The amount of the expenses, in such case, shall be established by a certificate signed by a member of the Commission or by the secretary, and such certificate, so signed, shall be final and shall establish indisputably the exigibility of the debt from such municipality. Payment by municipality in certain case.

The amount of expenses established by such certificate may be recovered from the municipality by ordinary suit brought in the name of the Commission. Recovery of amount.

"DIVISION III

"CERTAIN INVESTIGATIONS BY THE COMMISSION

"22. The Commission may of its own initiative and must, if thereunto requested by the Minister, make investigation into the financial administration of a municipality. Investigation of municipal finances.

Powers
therefor.

For the purposes of such investigation the Commission shall have and exercise all the powers conferred upon a commissioner appointed under the Public Inquiry Commission Act (Chap. 8.)

Report
thereof.

"23. The Commission, if thereunto requested by the Minister, shall make a report to the latter on the result of any investigation held under the preceding section and inform him of its conclusions in writing.

"DIVISION IV

"APPROVAL OF LOANS BY THE COMMISSION

Loan
formalities.

"24. Subject to the provisions of the second paragraph of this section, every loan contracted by a municipality must, in order to bind such municipality, be approved by the Commission.

Exceptions.

The provisions of the preceding paragraph shall not apply to loans contracted under the Unemployed Aid Act, 1930, and the Unemployed Aid Act, 1931, nor to those temporary loans which the Commission may, by one or more regulations approved by the Lieutenant-Governor in Council, exclude from the application of the said provisions.

Approval
upon appli-
cation.

"25. When a municipal corporation is concerned, the approval mentioned in the preceding section is obtained upon application made by mere resolution and submitted to the Commission;

a. After the loan by-law has been approved by the electors who are property-owners, when such by-law is subject to such formality; or

b. Immediately after the adoption of the procedure enacting the loan in other cases.

Suspension
of delays on
proceed-
ings.

In the cases referred to in this section, the delays on proceedings shall cease to run from the date of the resolution applying for such approval until the date of the receipt by the municipal corporation of the decision of the Commission upon such application.

Approval
upon
application.

"26. When a corporation governed by this act, other than a municipal corporation, is concerned, the approval referred to in section 24 is obtained by application made by a resolution of the corporation and submitted to the Commission immediately after the adoption of the proceedings enacting the loan. In such cases, if delays for proceedings

are determined by the law governing the corporation, such delays shall cease to run from the date of the resolution applying for approval until the date of the receipt, by the corporation, of the decision of the Commission upon such application for approval. Suspension of delays on proceedings.

"27. The application for approval must be forwarded to the secretary of the Commission together with the documents respecting the loan and with all other documents and information which the Commission may require. Forwarding of application.

"28. The Commission shall, in conducting its investigation upon which its decision will be based relative to an application for the approval of a loan, take into consideration the objects of the proposed loan, the necessity or expediency of such loan and the financial standing of the municipality. Conducting of investigations.

"29. For the purpose of any investigation held under section 28, the Commission may summon and examine under oath any person whose evidence it wishes to obtain, and may fix a date for receiving or hearing the representations of any person who has an interest in having the application for approval granted or refused. In the latter case, the Commission may order that public notice be given for the purpose. Summoning of witnesses, etc.

"30. The Commission may adopt such means as it deems necessary to assure itself of the fact that the proceeds of the loans authorized by it are employed for the objects for which they were made. Powers of Commission.

"31. The provisions of this Division IV shall not have the effect of repealing the provisions of any general or special act respecting the proceedings that a municipality must accomplish in order to effect a loan. Provisions safeguarded.

"DIVISION V

"DECLARATION OF DEFAULT AGAINST A MUNICIPALITY

"32. Any municipality which does not meet the payment of the interest, of the principal or of a part of the principal of a loan contracted by it before or after the coming into force of this act, may be declared to be in default according to the provisions hereinafter enacted, upon a demand made to the Commission: When municipality may be declared in default.

a. By the municipality itself; or

b. By the creditors of the municipality who hold claims against it representing at least twenty-five per cent (25%) of the total debt of such municipality.

Petition for investigation.

"33. The Commission of its own initiative or upon a demand, as above provided, may petition a judge of the Superior Court of the district within whose jurisdiction the municipality concerned lies, for an investigation to have such municipality declared to be in default of accomplishing, in whole or in part, its obligations respecting any loan contracted by it before or after the coming into force of this act.

Consideration only after publication, etc.

"34. Such petition shall be taken into consideration only after at least eight days' notice of its presentation has been given to the municipality and has been published in the *Quebec Official Gazette*, in a French newspaper and in an English newspaper published in the city of Quebec, and in a French newspaper and an English newspaper published in the city of Montreal.

Single publication.

A single publication in the *Quebec Official Gazette* and in each of such newspapers shall be sufficient.

Procedure by judge.

"35. The judge, upon such petition, orders whatever proof he may deem necessary; and, if the evidence offered is sufficient, he shall grant the demand and declare the municipality concerned to be in default.

No appeal.

Such decision of the judge shall be final and without appeal.

Costs.

"36. The costs on such petition shall be determined by the judge who renders the judgment.

Period during which municipality remains under control.

"37. From the date of a judgment declaring any municipality in default, as above provided, and until the Commission orders, in accordance with section 45, that the said municipality be no longer considered in default, such municipality shall be under the control of the Commission, which, in the exercise of such control, possesses and may exercise all the powers provided by the provisions of Division VI.

Powers of Commission.

No suits, etc., without authorization.

"38. During the period of time referred to in section 37, no suit, execution or other proceedings may be begun or continued against any municipality in default without the authorization of the Commission.

In such case the prescription and the delays for proceedings shall not run; they, nevertheless, recommence to run in the case where the Commission authorizes a suit, execution or any other proceeding to be begun or continued, and shall run from the date of such authorization. Prescription, etc.

"DIVISION VI

"CONTROL OVER A MUNICIPALITY IN DEFAULT

"39. In any municipality in default:

a. All municipal work shall be done under the control and direction of the Commission, and no contract for work may be given without the previous approval of the Commission; without such approval, such contract shall be of no effect; Effect of control: Municipal works;

b. All moneys collected for the municipality must be deposited in a bank, in the name of the Commission in trust for such municipality, and shall be drawn out only by cheque signed by the authorized municipal officers and countersigned by a member of the Commission or by the person authorized to that effect by the Commission; Deposit and withdrawal of moneys;

c. The Commission shall fix each year the rate and amount of the taxes, permits or licenses to be imposed and levied each year in the municipality; it shall also fix the price to be paid for municipal services, taking into account acquired rights. Upon failure by such municipality to impose the taxes, permits, licenses or prices according to the rate and for the amount so fixed, within a delay of thirty days from the notice given to it by the Commission, the latter shall be substituted for such municipality, which shall no longer act, and all the powers of such municipality with respect to the imposition and collection of the said taxes, permits, licenses or prices shall belong to the Commission. Fixing of taxes, etc.;

The Commission shall be likewise vested, in the same manner and with the same effect, with the powers of the municipality whenever the latter neglects or refuses, after a previous notice of thirty days which shall be given to it by the Commission, to levy any special tax imposed by a loan by-law or any other by-law in force. Levying of special taxes;

For such purposes the officers of the municipality shall be the officers of the Commission. Officers;

Whenever the municipality neglects or refuses to collect the taxes due, within the delay fixed by the Commission, the latter may itself collect them, and, for that purpose, may, in the name and at the cost of such municipality, institute any necessary judicial proceeding; Collection of taxes;

Substitution in rights of municipality;

d. In any case not provided for by this section, the Commission shall be substituted as of right for the municipality whenever such municipality refuses or neglects to do or perform, within thirty days of the notice given to it by the Commission, any act which the latter orders it to do or perform. For such purposes, the Commission shall exercise all the powers of such municipality, and whatever is done by the Commission shall have the same effect in all respects as if such municipality had itself acted;

Approval, etc., of valuation roll;

e. No valuation roll, made and prepared by the municipality, shall have any effect until approved by the Commission. The latter shall have the power to revise and amend any valuation roll submitted for its approval.

Hearing of interested parties;

After public notice given in conformity with the law governing the municipality, the Commission shall hear all parties interested and their witnesses under oath. The decision of the Commission shall be subject to appeal in the same manner as if such decision had been rendered by the municipality;

Appeal from decision;

Submission of budgets;

f. The budgets of the municipality shall be submitted to the Commission which may approve them, with or without amendment, and, until they have been so approved, they shall be without effect; no expenditure for such municipality may be made which has not been so approved;

Appointment, etc., of officers;

g. The appointment or the dismissal of any officer or employee of the municipality shall be without effect unless it be approved by the Commission, which shall alone have the right to fix the salary and the term of engagement.

Dismissal;

The Commission shall have the power to dismiss any such officer or employee. It shall have the same power with respect to the officers or employees in office at the date of the coming into force of this act.

Exclusive power;

The Commission may, by notice given to the municipality, reserve to itself the exclusive power of appointing, dismissing and replacing such officers or employees;

Acquisition of immoveables;

h. No immoveable may be acquired by mutual agreement or by expropriation by the municipality without the authorization of the Commission and unless the latter be a party to the deed of purchase or expropriation proceedings.

Id., by Commission;

Instead of authorizing such a municipality for such purpose, the Commission may itself acquire in its own name, by mutual agreement or by expropriation, for and at the expense of the municipality interested, an immoveable and afterwards convey the title to the municipality;

Sale of immoveables;

i. No immoveable may be sold by the municipality without the Commission participating in the deed;

j. The Commission may intervene in any suit begun or instituted against the municipality and adopt such conclusions therein as it may deem necessary. Intervention in suits;

The expenses incurred under this head shall be borne by such municipality. Expenses.

"40. The Commission is authorized to become purchaser of any immovable situated in a municipality in default when the Commission considers it advisable to assure the payment of any tax affecting such immovable. Purchase of immovable by Commission in certain case.

Any immovable so purchased by the Commission shall be held by it for the interested municipality, but will be subject to being redeemed according to the provisions of the law which governs such municipality. Redemption thereof.

Subject to the provisions of the preceding paragraph, the Commission may sell any immovable so acquired, upon the terms and at the time it sees fit so to do. Sale thereof.

No municipality in default shall have a right to become purchaser of an immovable sold as above without the consent of the Commission. Restriction on municipality.

"41. Every officer or councillor of a municipality in default, who authorizes an expenditure of money or a payment without the authorization of the Commission, of one of its members or of its delegate, when such authorization is required, or who permits or authorizes the money to be used for purposes other than those for which it was destined, shall be personally responsible for the expenditure so authorized or paid, or for the sum of money so diverted. Personal liability of municipal officers in certain case.

"42. The Commission may, by injunction proceedings instituted in its own name, prevent or stop the execution of any undertakings or works which have not been approved by it when such approval is required, with costs against the municipality interested. Prevention, etc., of works, etc., by injunction.

"43. The Commission is empowered to institute, at the cost of the municipality in default, any suit which it thinks useful or necessary in the interests of such municipality, without being obliged to obtain the consent of the latter or to prove its refusal. Power to institute suits.

Whenever the Commission exercises the powers of a municipality in default for which it has been substituted it shall proceed by mere resolution. Procedure by resolution.

"44. The Commission may also, whenever a municipality is declared in default under this act: Further powers over municipality in default:

Employment of monies;

Ratification of arrangements, etc.;

Exempting collection of certain taxes.

Notice to municipality no longer in default.

Effect thereof.

Delegation of powers.

Proviso.

a. Order the manner of employment of the monies not appropriated to determined purposes;

b. Ratify and confirm any arrangement or agreement entered into between such a municipality and its creditors, provided that the conditions of such arrangement or agreement are such as the Commission would itself have imposed. The ratification and confirmation of such arrangement or agreement by the Commission shall render it legal, valid and binding on all the parties;

c. Relieve such municipality from collecting, for one or more years or for any other period of time, and on the conditions which it may determine, the tax provided by any by-law authorizing a loan or creating a debt.

"45. When the Commission is of opinion that there is no more reason to consider a municipality in default, it shall render a decision to that effect and give a notice thereof to the municipality. Such notice shall, in addition, be published in accordance with section 34. From the date indicated by the Commission in such notice, the municipality declared in default under this act shall cease to be so considered and shall resume all its powers.

"46. The Commission may delegate to any one of its members or to one or more other persons, the powers attributed to it by the provisions of Division III and of this Division VI of this act, provided that such delegation of powers and choice of the person or persons so named be approved by the Minister.

"DIVISION VII

"AUDITING OF MUNICIPAL ACCOUNTS

Auditor must be authorized in writing.

Granting of authorization.

Duration of same.

Unauthorized persons

"47. 1. No person may act as auditor of the accounts of a municipality unless he has first obtained authorization in writing from the Commission.

2. Such permission is granted to any person making application therefor to the secretary of the Commission in the form required by the latter. Such application shall mention the qualifications and competence of the person making the same as well as his knowledge of municipal accountancy.

3. Such permission shall be valid until withdrawn by the Commission.

4. No person who has acted as auditor of the accounts of any municipality without previously obtaining the au-

thorization of the Commission, in accordance with the not entitled above provisions, or after the cancellation of such author- to recover ization, shall be entitled to recover before the courts any fees, etc. fee, disbursement or costs in connection with the audit made by him, and the municipality whose accounts have been audited by an unauthorized person may recover from such person the amounts which it has paid to him for such purpose.

This section shall not apply to persons who are members Application of a corporation, association or institution of account- restricted. ants regularly constituted by statute.

"DIVISION VIII

"GENERAL PROVISIONS

"48. The Commission may make rules of practice regul- Rules of ating its procedure and the carrying out of this act, inso- practice. far as may not be inconsistent with this act.

Such rules of practice shall come into force, after being Coming into approved by the Lieutenant-Governor in Council, from the force there- date of their publication in the *Quebec Official Gazette*. of.

"49. Any summons to a witness may be signed by a Service, etc., member of the Commission or by the secretary and shall be of summons. served in the same manner as a like summons is served in the Superior Court, or by registered mail.

"50. Every bailiff of the Superior Court is *ex-officio* a *Ex-officio* bailiff of the Commission, and may make a return under bailiff. his oath of office of any service made or other proceeding taken by him.

If any person fraudulently evades any service, the Com- Evasion of mission may, upon a return to that effect, prescribe what- service. ever mode of service it deems proper.

"51. Every person who, after having been summoned, Persons fails to appear at the time and place mentioned in the failing to order; or refuses to take the oath, or fails or refuses, with- appear, etc. out good reason, to give full answer to any question put to him; or who fails or refuses to give evidence under this act; or who fails or refuses to produce any document, book or paper in his possession or under his control; or who fails or refuses to obey any order of the Commission or of one of its members or of its delegates,—may be ar- Penalty. rested upon a written order of the Commission or of one of its members, and may be taken to the common gaol,

there to be held for a period of time of not more than thirty days, or may be sentenced to pay a fine of not more than one hundred dollars, in addition to the costs, and, on failure to pay such fine and costs, be imprisoned in the common gaol of the district for not more than thirty days.

Additional
powers of
Commis-
sion.

“52. The Commission, each of its members or any delegate, may,—

1. Have access to and inspect any place, building or work being the property of any municipality or under the control of the latter;

2. Inspect any work, structure, rolling-stock or other property of such municipality;

3. In cases not specially provided for by this act, require the attendance of all such persons as it or he thinks fit to summon and examine, and take the testimony of such persons, and require the production of any book, by-law or document;

4. Administer oaths and receive affirmations or declarations;—

And shall have the same powers as those mentioned in section 51 to summon witnesses, enforce their attendance, and compel them to give evidence and produce the books and documents which they may be required to produce.

Coming into
force of
orders.

“53. The Commission may direct in any order that it issues that such order or any portion thereof shall come into force at a future time, or upon the happening of any contingency in such order specified, or upon the performance to the satisfaction of the Commission, or person named by it, of any conditions which the Commission may impose, and the Commission may direct that the whole or any portion of such order shall have force for a limited time, or until the happening of a specified event.

Extension
of delay.

“54. When any order of the Commission requires any work, act, or thing to be performed or done within a specified time, the Commission may extend the time so specified.

Notifica-
tion by mu-
nicipality
on receipt of
order, etc.

“55. Every municipality shall, as soon as possible after having received or having been served with any order or other document on behalf of the Commission, notify the same to each of its officers and servants performing duties which are or may be affected thereby, by delivering a copy thereof to him or by posting up a copy thereof in some place where his work or duties or some of them are to be performed.

"56. The Commission shall be bound to supply the Minister with the reports which the latter may require. ^{Transmission of reports.}

"57. This act shall apply to the city of Montreal as ^{Application to city of Montreal.} from May, 1934, only."

2. This act shall come into force on the day on which it may please the Lieutenant-Governor in Council to fix by ^{Coming into force.} proclamation.

