

C H A P. 109

An Act to amend the charter of the Montreal Water and Power Company.

[Assented to 19th February, 1914]

Preamble.

WHEREAS the Montreal Water and Power Company has by its petition represented that in order to permit the company to proceed with the development of its business and the proper carrying out of its contracts, and for other purposes, it is desirable that its charter, as amended by the act 55-56 Victoria, chapter 75, being "An Act respecting the Montreal Water and Power Company", be amended; that the supplementary letters patent granted the company be confirmed and ratified; that the authorized capital stock of the company be increased; and that certain deeds respecting the company be ratified and confirmed;

Whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

Supplementary letters patent ratified.

1. The supplementary letters patent issued to the Montreal Water and Power Company and granted on the 9th day of March, 1908, are hereby confirmed and ratified, and the authorized capital stock of the Montreal Water and Power Company is hereby increased from one million one hundred and sixty thousand dollars to four million dollars, and shall be divided into twenty thousand shares of 7% non-cumulative preferred stock of the par value of one hundred dollars each, and eighty thousand shares of common stock of the par value of twenty-five dollars each.

Capital stock increased.

By-laws and contracts ratified.

2. The following by-laws and contracts are ratified and confirmed and declared to be legal and valid:

a. The agreement between the Montreal Water and Power Company and the town of Maisonneuve dated the 9th of February, 1891, passed before Mtre. Fair, N. P.

b. By-law No. 36 of the town of Maisonneuve dated 30th of September, 1891.

c. Contract between the town of Maisonneuve and the Montreal Water and Power Company of the 18th of August, 1898, passed before Mtre. Ecrement, N. P.

d. Contract between the town of Maisonneuve and the Montreal Water and Power Company dated 3rd of November, 1911, passed before Mtre. Fair, N. P.

e. Contract between the town of Maisonneuve and the Montreal Water and Power Company dated 1st of May, 1912, passed before Mtre. Fair, N. P.

f. Contract between the town of Cote St. Antoine (now the city of Westmount) and the Montreal Water and Power Company dated 14th of March, 1891, passed before Mtre. Fair, N. P.

g. Contract between the city of Westmount and the Montreal Water and Power Company of the 15th of October, 1908, passed before Mtre. Lighthall, N. P.

h. Contract between the city of Westmount and the Montreal Water and Power Company of the 12th of September, 1911, passed before Mtre. Lighthall, N. P.

i. Contract between the town of Outremont and the Montreal Water and Power Company of the 27th of February, 1891, passed before Mtre. Fair, N. P.

j. Contract between the town of Outremont and the Montreal Water and Power Company of the 4th of October, 1912, passed before Mtre. Cameron, N. P.

k. Contract between the town of St. Henri and the Montreal Water and Power Company of the 4th of September, 1891, passed before Mtre. Brodie, N. P.

l. Contract between the town of Cote St. Paul and the Montreal Water and Power Company of the 11th of March, 1891, passed before Mtre. Fair, N.P.

m. By-law of the municipal council of the village of Côte St. Paul dated 14th August, 1891.

n. Contract between the village of St. Louis de Mile End and the Montreal Island Water and Electric Company of the 12th of February, 1891, passed before Mtre. Fair, N. P.

o. By-law No. 15 of the town of Cote St. Louis of date 7th of October, 1891.

p. Contract between the town of Cote St. Louis and the Montreal Water and Power Company of date 8th of October, 1911, passed before Mtre. Fair, N. P.

q. Contract between the municipality of the village of Delorimer and the Montreal Water and Power Company of date the 28th of January, 1902, passed before Mtre. Mainville, N. P.

r. Contract between the town of Notre Dame des Neiges and the Montreal Water and Power Company of the 15th of March, 1906, passed before Mtre. Prudhomme, N. P.

s. Contract between the town of Cote Des Neiges and the Montreal Water and Power Company of the 26th of July, 1909, passed before Mtre. Morin, N. P.

Nothing in this section shall modify, limit or affect the powers, rights and privileges which are possessed by the city of Montreal under its charter and the amendments thereto.

Company to furnish a statement to city of Montreal.

3. The company shall, within thirty days of the coming into force of this act, furnish to the Board of Commissioners of the city of Montreal a statement certified to by the company's secretary and auditors, showing its assets and liabilities in detail up to the 31st December, 1913, inclusive. The city shall have the right, at any time within six months of such statement being furnished, to inspect the books, documents, titles, plant, obligations, contracts and statements of the company, and to employ for such examination such experts as the Board of Commissioners of said city may appoint.

City may make inspection.

City may deposit inscribed stock and become vested with all assets of company.

4. The city of Montreal may, at any time within six months after such statement has been furnished by the company, by resolution of the council, upon a report of the Board of Commissioners, deposit with the Royal Trust Company, to the order of the company, a certificate or certificates for inscribed stock of the city payable in forty years bearing interest at the rate of $4\frac{1}{2}$ per cent per annum, payable semi-annually, of a par value of \$1,020,000, and, upon such deposit being made, the city shall be vested with and entitled to the ownership, possession and exercise of all rights, privileges, powers, charter powers, franchises and other rights and assets generally of the company, including all minute-books, books of accounts and other books, deeds, titles and documents, and shall be responsible for all its obligations, hypothecs and liabilities, and, upon proof of such deposit being made, the Superior Court or any judge thereof shall, upon petition of the city, of which notice served at the head-office of the company shall be sufficient, declare the corporation of the said company dissolved, except in so far as may be necessary to enable the directors of the company to distribute to its shareholders the inscribed stock aforesaid or the proceeds thereof, and the said shareholders shall have no recourse or claim against the assets of the company or against the city, except against the inscribed stock so paid by the city, for their respective rights and proportion thereof. The rights, privileges, powers and franchises of the company, including the rights and privileges under the by-laws and

Responsible for all obligations.

Corporation to be declared dissolved.

Exception.

contracts ratified by this act or other acts of the Legislature of the Province, shall continue to be vested in the city notwithstanding the dissolution of the company.

5. In the event of the city availing itself of the said privileges, no notice, general or spécial, shall be required to be given to any debtor of the company of the transfer to the city of any claim or right of the company, which may be enforced by the city in its own name. The registration of a copy of section 4 of this act certified by the city clerk, and a copy of the judgment ordering the dissolution of the company, together with a notice containing a description of the immoveable and its cadastral number, shall avail as a title in favour of the city to any immoveable property registered in the name of the company or belonging to it.

No notice to any debtor required.

What shall avail as title to immoveable.

6. As an alternative, the city may, with the same formalities, during the period above mentioned, and without prejudice to the provisions of section 3, acquire and continue to have and to hold all the issued shares of the company, and shall be entitled to the delivery of the same, by depositing with the Royal Trust Company a certificate or certificates for inscribed stock of the city of a par value of \$1,020,000.00. The said inscribed stock shall be handed to the directors of the Montreal Water & Power Company upon delivery to the said trust company of all the preferred stock and at least ninety-five per cent of the ordinary stock issued by the company, within thirty days of the deposit by the city of its inscribed stock; in default of which such inscribed stock shall be handed back to the city upon demand. When such proportion of the capital stock of the company, and such amount of the inscribed stock of the city have been deposited with the said trust company, the city shall acquire the ownership of and a right to the possession of all the issued capital stock of the company; and any shareholder whose shares have not been handed in or delivered as above-mentioned shall have no recourse or claim against the city or against the property of the company, nor any rights therein, but he shall be entitled to his proportionate share of the inscribed stock so paid by the city.

As alternative, the city may acquire stock of company by depositing inscribed stock.

Rights of shareholder whose shares are not delivered.

If the city acquires in this manner the capital stock of the company, the corporate existence of the company shall continue, and the Board of Commissioners of the city shall have all the powers and qualities of directors of the company without it being necessary for such commissioners to personally hold any shares of the com-

Board of commissioners to become Board of Directors of company.

pany, and at all meetings of shareholders of the company, the city may be represented by the Mayor. The company may sell to the city of Montreal, or lease to it, for any term of years, its plant, works and property, without prejudice, however, to the rights of its creditors and shareholders.

May sell or lease to the city of Montreal, plant, &c.

City must carry out contracts of company in certain case.

7. In the event of the city availing itself of the privileges mentioned in section 4 of this act, it shall observe and carry out all the obligations of the company under its existing contracts with the cities of Westmount, Outremont, Maisonneuve and other municipalities; and the said cities and municipalities shall carry out all their obligations under said contracts as though the same had been entered into with the city of Montreal, which shall have the right, in its own name, to enforce such obligations.

City authorized to issue inscribed stock.

8. The city may, for the purpose of carrying out the foregoing purchase, issue, by simple resolution of its council upon a report of the Board of Commissioners, inscribed stock payable in forty years from date of issue, or such other date as may be mutually agreed upon, and bearing interest at the rate of $4\frac{1}{2}$ per cent per annum payable half-yearly, to an amount of not more than \$1,020,000.00, such stock to be in units of \$10.00 each and payable, as to principal and interest, at Montreal. The inscribed stock so issued and the liabilities, bonded or otherwise, assumed by the city shall not form part of the funded debt of the city, but shall rank *pari passu* with the other inscribed stock issued by the city; and such inscribed stock shall be provided for by a sinking fund sufficient to pay the amount of the said stock at maturity, calculated at the rate of $4\frac{1}{2}$ per cent per annum.

Not to form part of funded debt.

Sinking fund.

City to have right to expropriate in certain case.

9. In the event of the city not availing itself of the right conferred upon it by section 4 of this act within the period therein stated, it may, at any time, upon a report to that effect of the Board of Commissioners confirmed by resolution of the council of the city, adopted by a majority of the whole council, give notice to the company of its intention to acquire by expropriation the entire property, powers, assets and franchises of the company as a going concern.

Three arbitrators.

Such expropriation proceedings shall be conducted by a board of three arbitrators or commissioners, none of whom shall be in the employ or a bond-holder of either the city or the company, or a shareholder of the company. They shall have full power to summon and examine witnesses under oath, to compel the production of documents and to

Powers.

examine and investigate all the books, plant and assets generally of the company.

Within fifteen days of the giving of such notice by the city of the resolution to acquire the property of the company by expropriation, the Board of Commissioners of the city and the company shall each name one of the three arbitrators and give notice of the name of such nominee to the other corporation. The two arbitrators thus named shall, within a further period of fourteen days, name the third arbitrator, and, in the event of their failing to agree upon such third arbitrator within the said delay, or of his refusal to act, or resignation or death at any time during the course of the expropriation proceedings, he shall be named or replaced by order of any judge of the Superior Court of the district of Montreal upon petition by either the city or company, after notice given to the other corporation.

Each party to name one, who shall name the third.

Or third to be named by judge in certain cases.

In the event of the refusal to act, resignation, death or incapacity of any arbitrator named by the city or the company, the corporation which has made such nomination may alone name another arbitrator to replace the one so removed. In the event of either corporation not naming its arbitrator within the delay above mentioned, or not replacing him within the delay of fourteen days from the date of a vacancy, the other corporation may apply to a judge of the Superior Court after notice to the other party, and such arbitrator may be appointed by the judge.

Replacement of arbitrators.

The arbitrators shall be sworn before a judge of the Superior Court impartially to perform their duties, and may, by a majority, fix the dates and times of their sittings, the delays within which the parties shall present their respective cases and evidence, and generally the procedure in connection with the enquiry. The parties shall be entitled to be represented by counsel to whom notices in connection with the proceedings of the arbitrators shall be given. The arbitrators may make personal inspection and examination of any books, records, property and other assets of the company, and employ experts for that purpose, the costs of which shall form part of the costs of the expropriation. The arbitrators may fix and determine the date of their award, and may change and extend the same, but, in this respect, shall be subject to the supervision and order of the Superior Court of the district of Montreal, or of a judge thereof, upon petition by either corporation. The arbitrators may appoint a secretary who shall keep the minutes of their proceedings, and evidence shall be taken by stenography and form part of the record of their proceedings. The award of the majority of the arbitrators shall be final. The costs of the award shall be borne in equal proportions

Arbitrators to be sworn.

Counsel to be present.

Duties of arbitrators.

Costs.

by the two corporations. The fees of the arbitrators, secretary, counsel and witnesses and other costs, if not agreed to by the parties, shall be subject to the taxation of a judge of the Superior Court according to the tariffs in force.

Award.

The arbitrators shall, in their award, name a date as near as possible to the filing of the award, up to which the assets and liabilities of the company shall be calculated for the purpose of the expropriation, and they shall deposit their award and the record of their proceedings with the Prothonotary of the Superior Court for the district of Montreal, and give notice thereof to the city and to the company.

Company to make no contracts after notice of deposit of award.

The award shall mention the date from which interest shall run on the amount awarded, and the date from which the administration and operation of the company's undertaking shall be for the account of the city. After notice of the deposit of the award and until the delivery of the property as hereinafter mentioned, the company shall make no contracts, except such as are necessary and ordinary in the course of the administration and operation of its undertaking, without the consent of the Board of Commissioners of the city. Within four months of such deposit and notice, the city shall deposit with the Royal Trust Company the amount of the award with interest and its proportion of the costs, and, from the date of such deposit, the city shall be vested with and entitled to the ownership, possession and exercise of all the rights, powers, property, franchises and assets generally of the company, free of all liabilities and encumbrances anterior to the date up to which the assets and liabilities have been calculated in such award, and the creditors, secured or otherwise, and shareholders shall have no claim or recourse against the city in respect of any liability due or incurred by the company prior to such date, but the city shall carry out the obligations of the company towards the cities and municipalities with which the company is under contract, and shall be vested with all the rights of the company under such contracts, and entitled to enforce the same, and to sue for and recover any amounts due to the company under said contracts, from the date of such payment, in its own name, as though said contracts or any of them had been made directly with the city. The provisions of section 4 of this act apply, *mutatis mutandis*, in the event of the acquisition of the company's property by means of expropriation.

City to deposit the amount of award and its share of costs, and be vested with assets of company.

Shareholders to have no claim against city.

If money not deposited within four months, company may

If the city does not effect such deposit within the said four months, the company may, at its option, by written notice and without process of law, terminate the expropriation proceedings, and the company can claim any

damage it may have suffered on account of said expropriation proceedings or the failure to complete them by payment of the amount awarded. terminate proceedings.

If the city acquires by expropriation, it shall have the right to assume all or any of the contracts or agreements existing between the company and the individuals or companies for supplying materials, construction of works or otherwise; in the event of the city declining to assume such contracts it shall warrant the company against all claims in damages, if any, resulting from the breach thereof in consequence of such refusal, and the arbitrators shall not take into account such damages. Damages. City may assume all contracts.

The city is authorized by resolution of its council upon a report of the Board of Commissioners, to issue its bonds or inscribed stock payable in forty years from date of issue, and bearing interest at not more than 4½ per cent per annum, and to sell the same for an amount sufficient to meet the amount of the award of the arbitrators and interest and its proportion of the costs of such expropriation proceedings, and said loan shall not form part of the funded debt of the city. Issue of bonds or inscribed stock authorized.

The city may assume the bonded indebtedness of the company with all the mortgages, hypothecs and liens created by the company to secure the same, and in such event it shall sufficiently comply with the requirements of this section as to payment of the award, by depositing, within the delay stated, the difference between such bonded indebtedness, with accrued interest to the date of the deposit, and the amount of the award with interest and the company's proportion of costs. City may assume bonded indebtedness of company.

10. Whatever be the manner in which the city acquires the assets of the company, such assets, once acquired, shall form part of the assets of the city, and the city may, for the development or reconstruction of the water-works system acquired from the company, make use of the sums of money which it has the power to borrow under articles 343 and 343a of its charter, whether such development or reconstruction be made within or without its boundaries. Assets of company to become assets of city.

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