

C H A P . 58

An Act to amend the charter of the town of Outremont

[Assented to 2nd June, 1904]

WHEREAS the town of Outremont has, by petition, Preamble.
 prayed that the powers conferred upon it by its charter, the act 58 Victoria, chapter 55, as amended by the act 63 Victoria, chapter 55, be increased and the said charter amended, and whereas it is expedient to grant its prayer ;

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

PERSONS QUALIFIED FOR MUNICIPAL OFFICES

1. Section 1 of the act 63 Victoria, chapter 55, is replaced 63 V., c. 55,
 by the following : s. 1, replaced.

“**1.** No one can fill the office of mayor or councillor or be Declaration
 nominated for the said offices, unless he has previously re- and deposit
 mitted to the presiding officer a sworn declaration under his to be made
 signature, stating that he is qualified according to law, and by candidate
 containing a detailed description of the immovable in respect for office of
 whereof he is qualified, and unless he has previously deposited, mayor and
 in the hands of the said presiding officer, the sum of two councillor.
 hundred dollars, which sum such person may claim from the
 town, if he has been elected or if he has obtained at least one-
 half the number of votes polled in favor of the candidate
 elected, otherwise such sum may be confiscated for the benefit
 of the town.”

POWERS OF THE TOWN

2. Section 24 of the act 58 Victoria, chapter 55, is re- 58 V., c. 55,
 placed by the following : s. 24, re-
 placed.

“**24.** The council may, by amicable arrangement, expro- Power to take
 priation or otherwise, acquire, take possession of and enter possession of
 into any immovable property within the town, which the immovables
 said council considers necessary or useful to the carrying for certain
 out of any improvement.” purposes.

3. The authentic deed passed before A. C. Lyman, N. P., Deed of
 on the eighteenth day of March, 1904, by which the town March 18,
 has acquired from Robert Macnider *et al.* lots 26 and 31 of 1904, ratified,
 the official plan and book of reference of the parish of Mont- &c.
 real, for the purposes of extending Boulevard Street and
 widening Côte St. Catherine Road and executing certain

other improvements, as recited in the schedule hereto annexed, is declared legal and valid, and ratified for all purposes.

58 V., c. 55,
s. 23, § 29, re-
placed.

Raise by as-
sessment
money to
open, &c.,
streets, &c.

Proviso.

Power to con-
struct, &c.,
system of
underground
conduits, &c.

Power to con-
struct, &c., a
lighting
plant, &c.

Certain obli-
gations not
affected by
act.

R. S., 4525,
replaced for
town.

4. Subsection 29 of section 23 of the act 58 Victoria, chapter 55, is replaced by the following :

“ 29. Raise by special assessment or assessments, moneys sufficient to open, widen, prolong, alter, grade, level or otherwise make or pave any street, road, avenue, boulevard, lane or alley, public place or square, (including those maintained by the trustees of turnpike roads) or any section or sections thereof in the town, or permanently improve the same, and acquire and lay water pipes and construct hydrants therein as may be necessary to supply the inhabitants with water and as a protection against fire ; construct, repair and maintain either permanent or temporary sidewalks therein as may be necessary ; fence in such streets, roads, avenues, boulevards, lanes, alleys, public places or squares or any section thereof, and make, carry out and complete such work or works or any or all of them ; provided that every such by-law is approved by a two-thirds' vote of the council”.

5. The town shall have power, by by-laws approved by the majority, in number and in value, of the electors who are proprietors and who have voted on such by-laws, to construct, maintain and operate, throughout its territory, a system of underground conduits for telegraph, telephone, electric light wires or cables, and other purposes, and to lease the said conduits in whole or in part, and sell or otherwise dispose of the same.

6. The town shall have power, by by-laws approved by the majority, in number and in value, of the electors who are proprietors and who have voted on such by-laws, to construct, maintain and operate a lighting plant and system, by gas, electricity or other process, and to lease, sell or otherwise dispose of the same.

7. Nothing in this act contained shall be interpreted as allowing the town to violate any of the obligations which were undertaken by contract or otherwise, or as affecting or repealing the powers specially granted by statute to any corporations, companies or persons.

LOANS

8. Article 4525 of the Revised Statutes, as amended by the act 59 Victoria, chapter 31, is replaced for the town by the following :

The sinking fund must be invested in the public funds of the Dominion or of the Province, or on first hypothec to an amount not exceeding one-half of the value of the property mortgaged, as appearing by the municipal valuation roll ; provided that provision be made for the insurance of the property so mortgaged, to be taken in the name of the corporation and at the expense of the borrower, to an amount of not less than one-half of the value of the property so insured, or be employed in the redemption of bonds issued by the corporation, or be deposited in an incorporated bank, or invested in local improvements, the entire cost whereof is guaranteed to the town by a privilege on the property of the ratepayers.

The council may, if the lenders consent to it or require it, deposit in their hands the sums intended for the sinking fund.

In such case the receipts given to the council are so drawn as to define what amount has been paid for interest, and what amount for the sinking fund.

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

SCHEDULE

Before Mtre. ALBERT CLARENCE LYMAN, the undersigned notary public, in and for the Province of Quebec, residing and practising at the city of Montreal, in the said Province,

APPEARED :

THE TOWN OF OUTREMONT, a body politic and corporate, duly incorporated, having its principal place of business at the town of Outremont, in the district of Montreal, herein acting and represented by WILLIAM W. DUNLOP, of the said town of Outremont, fruit grower, the mayor of said town, and JULIUS KRUSE, residing in the town of St. Louis, in the district of Montreal, the secretary-treasurer of the town of Outremont, duly and specially authorized for the purposes hereof by a resolution passed by the municipal council of the said town on the sixteenth day of March instant (1904), a duly certified copy whereof is hereto annexed, signed for identification by the said mayor and secretary-treasurer and the undersigned notary *ne varietur*,

Party of the first part,

ADAM ROBERT MACNIDER, of the city of Bismark in the State of North Dakota, one of the United States of America, Gentleman,

Party of the second part,

AND

DAME FLORENCE ROSINA MACNIDER, wife separated as to property of Frederick Jay Rupert, of the said city of Bismark, assistant observer of the United States Weather Bureau, and the said FREDERICK JAY RUPERT, as well in his own behalf as for the purpose of authorizing his said wife; and DAME JANET FINDLAY MACNIDER, wife, separated as to property, of Elliott Chapel Barnes, of the county of Burleigh, in the said State of North Dakota, farmer and ranchman, and the said ELLIOTT CHAPEL BARNES, as well in his own behalf as for the purpose of authorizing his said wife,

Parties of the third part,

The said Adam Robert Macnider, herein acting and represented by the Royal Trust Company, a body corporate duly incorporated, having its principal place of business at the said city of Montreal, his duly constituted attorney in virtue of a special power of attorney from him, executed in the presence of a witness at the said city of Bismark, in the county of Burleigh, in the said State of North Dakota, on the eighth day of March instant (1904) and certified by the notarial certificate of M. J. McKenzie, a notary public in and for the said city and county, bearing date on the said eighth of March, 1904, and duly authenticated by the certificate of Herman Falkenstein, the clerk of the district court for the sixth judicial district and county aforesaid, granted under the seal of said court and bearing date on the said eighth of March, 1904; the said Dame Florence Rosina Macnider and her said husband, and the said Dame Janet Findlay Macnider and her said husband, herein acting and represented by the said The Royal Trust Company, their duly constituted attorney in virtue of two several special powers of attorney executed at the said city of Bismark on the said eighth of March, 1904, each in the presence of a witness and each certified by a notarial certificate of the said M. J. McKenzie, notary public, in and for said city and county, granted by him and bearing date on the said eighth of March, 1904, and each duly authenticated by a certificate of Herman Falkenstein, the clerk of said court and granted under the seal of the said court and bearing date the same day, the above-mentioned three powers of attorney being deposited with the undersigned notary by the said

the Royal Trust Company on the seventeenth day of March instant (1904); The said the Royal Trust Company, herein acting and represented by Archibald Macnider of the said city of Montreal, a member of the executive committee thereof, and Hugh Robertson, of the same place, the manager thereof, duly authorized in virtue of by-law number twenty-six (26) of the said company's by-laws;

Which said parties, acting and represented as aforesaid declared, as follows :

Whereas the said town of Outremont, party of the first part, actually required and can obtain by means of an expropriation, for the purposes of carrying out certain public improvements, and more particularly for the widening of the Cote St. Catherine Road and the prolongation of the "Boulevard" in the said town of Outremont, the immoveable property known and designated as lots official numbers twenty-six and thirty-one (Nos. 26 and 31) of the official plan and book of reference of the municipality of the parish of Montreal, with the buildings thereon erected, the said immoveable property being comprised within the limits of the said town of Outremont ;

And whereas the party of the second part declares that he is the proprietor as institute of the above-mentioned immoveable property under the will of the late Dame Janet Findlay, widow of the late Robert Aird, said will passed before Mtres J. P. Grant and W. Crawford, notaries public, on the sixteenth day of August in the year eighteen hundred and thirty-two, and duly registered in the registry office for the then registration division of Montreal on the twenty-fourth day of October, in the year eighteen hundred and forty-four, under number 3217 ;

And whereas the said party of the second part further declares that the said Florence Rosina Macnider and Janet Findlay Macnider, parties hereto of the third part, are his only living children, the others having died without issue ;

And whereas the said Dame Florence Rosina Macnider and Dame Janet Findlay Macnider, parties hereto of the third part, severally declare that they have both attained the age of majority and are the substitutes designated in the aforesaid will of the said Dame Janet Findlay, with the right, at the death of the party of the second part, for themselves and their issue to the final proprietorship of the aforesaid described immoveable property ;

And whereas, by virtue of article 5754 b of the Revised Statutes of the Province of Quebec, as added to by the act 54 Victoria, chapter 38, Quebec, the party of the second part as institute has the right and power to sell, receive the price of sale and thereby alienate in a final manner, the aforesaid property required for public improvements and

which may accordingly be obtained by the party of the first part by means of an expropriation ;

And whereas the said property having for many years past barely brought forth and produced sufficient revenue to pay the municipal taxes and school taxes thereon, it has been impossible for the party of the second part to execute and perform the necessary repairs and improvements on the said property which has consequently deteriorated and lost in value ;

And whereas it is in the interest of each and every one of the aforesaid parties that the present deed of sale should be executed ;

Now therefore these presents and I, the said undersigned notary, witness :

That the party of the second part doth hereby sell and convey, with warranty against all mortgages or charges of every nature whatsoever, save and except arrears of municipal taxes and assessments, unto the party of the first part hereto present and thereof accepting, the above-mentioned immoveable property, that is to say :

DESCRIPTION.

Those two certain lots of land situate and being in the town of Outremont in the district of Montreal and being known and designated as lots official numbers twenty-six and thirty-one (Nos. 26 and 31) of the official plan and book of reference of the municipality of the parish of Montreal, with the buildings thereon erected, as the said property now subsists, with all its rights, members and appurtenances without exception or reserve of any kind on the part of the party of the second part, the party of the first part declaring to have a perfect knowledge thereof and to be therewith content.

TITLE.

The party of the second part declares that he is in possession of the said property in virtue of good and sufficient titles, to wit : as institute under the terms of the above mentioned will of the said late Dame Janet Findlay as above stated.

POSSESSION.

To have, hold, use and enjoy the said immoveable property, hereby sold and conveyed, unto the party of the first part and its assigns, as its and their own absolute property forever, by virtue of these presents, to enter upon and take

possession thereof forthwith, except that the present tenant, Mr. John Ritchie, of the town of Outremont, clerk, is to be allowed the use of the dwelling-house and other buildings thereon erected, up to the first day of May next (1904) free of rent.

TENURE.

The party of the second part declares that the said property is held under the tenure of *franc aleu roturier* having been duly commuted and commutation price paid.

DECLARATIONS OF THE PARTY OF THE SECOND PART.

The party of the second part declared and covenanted :

1. That the said property is free and clear of all charges, assessments and rates other than the municipal taxes thereon, which the party of the first part obliges itself to pay as hereinafter stipulated, and that it is free and clear of all encumbrances of every nature ;

2. That he has been only once married namely to Dame Eliza Falconer who is still alive ;

3. That Robert Aird and Adam Lymburner Macnider, who were named in the said will as usufructuaries of the said property, are both dead, and Dame Findlay Aird also named therein as beneficiary is also dead ;

4. That the family vault formerly existing on the said property and mentioned in the said will was demolished, and the bodies which had been therein interred were removed therefrom in or about the year eighteen hundred and sixty-five.

CONDITIONS.

This sale and conveyance is made subject to the following essential conditions, to the fulfilment whereof the party of the first part obliges itself, namely :

1. To pay the costs of this deed, of its registration and of an authentic and registered copy for the party of the second part, also the costs of having these presents ratified by the Legislature of the Province of Quebec ;

2. The party of the first part hereby assumes the obligation of paying all arrears of municipal taxes and assessments both general and special at present affecting the said immoveable property.

PRICE.

The present sale and conveyance is thus made for the further consideration of the price and sum of twenty-four

thousand dollars, which sum is to be payable in ten years from the date hereof, to wit: on the eighteenth day of March, in the year nineteen hundred and fourteen, to the said party of the second part and, in the event of his death before the said sum shall have been paid, then the said sum shall be paid to the parties legally entitled thereto in accordance with the terms of the said last will; and until paid the said sum shall bear, and the party of the first part binds itself to pay thereon, interest at the rate of five per centum per annum reckoned from this date and payable semi-annually on the first day of the months of May and November in each year. The first instalment of which interest shall become due and payable on the first day of May next (1904). All payments hereunder to be made at the office of the Royal Trust Company, at Montreal.

Notwithstanding the term of payment of the said price as as above stated, the party of the first part, after having given six months' written notice to the party of the second part or those legally entitled to receive the price, shall have the right at any time to pay off the said price, namely, twenty-four thousand dollars, together with all interest then accrued thereon, by remitting the same to the party of the second part or, in the event of his previous death, to those entitled thereto under the said will.

Notwithstanding that the said price of sale has not been paid at or before the execution of these presents, it is expressly stipulated by and between the parties hereto that the above described and conveyed immoveable property shall not be charged or affected with or by any *bailleur de fonds* mortgage, or hypothecary claim for the payment of said price and interest, but shall be and remain free and clear of and from all and any such claim as fully as if the said price had been paid in cash at or before the passing of these presents, the parties of the second and third parts, however, retaining in full force and effect their personal claim upon and against the party of the first part for the payment of the said price and interest.

INTERVENTION.

To these presents personally intervened and were present:

1. The said John Ritchie who, having taken communication of these presents, declared himself content and satisfied therewith and agrees to give up possession of the said immoveable property forthwith, save and except that he is to be allowed to retain possession of the said buildings thereon up to the first day of May next (1904) free of rent.
2. The hereinabove described parties of the third part who, having taken communication of these presents, and in

view of the advantages to be derived from this present transaction by the estate of the said late Dame Janet Findlay, declared that they are content and satisfied with these presents and that they expressly agree that this sale and conveyance be carried out according to the terms herein set forth, they hereby ratifying and confirming the same in every particular, and they further declare that they hereby relinquish in favour of the party of the first part all their respective eventual and prospective rights in and claims upon the said immoveable property, reserving only, however, their right to exercise and enforce any such rights and claims against and upon the party of the second part for the said price of sale and interest thereon.

It is expressly stipulated that the party of the first part undertakes to have these presents ratified and confirmed by the Legislature of the Province of Quebec at the coming session thereof, and, in the event of its failing to obtain such ratification and confirmation, these presents shall *ipso facto* become null and void and of no effect.

WHEREOF ACTE :

DONE AND PASSED, at the said city of Montreal, on this eighth day of March, in the year of Our Lord one thousand nine hundred and four, and after due reading hereof the said appearers, acting and represented as aforesaid, signed these presents with the undersigned notary, in whose office they remain of record under the number two thousand two hundred and seven, the whole according to law.

(Signed)	W. W. DUNLOP, <i>Mayor.</i>
“	JULIUS KRUSE, <i>Sec.-Treas.</i>
“	THE ROYAL TRUST COMPANY,
L. S.	“ A. MACNIDER, <i>Member Executive Committee.</i>
“	H. ROBERTSON, <i>Manager</i>
“	JOHN RITCHIE,
“	A. C. LYMAN, N. P.

A true copy of the original hereof remaining of record in my office.

A. C. LYMAN, N. P.