

C H A P. 43

An Act to consolidate the act incorporating the Bailiffs of the district of Montreal.

[Assented to 26th March, 1902]

WHEREAS the corporation of the bailiffs of the district of Montreal has, by petition, represented that it is necessary to amend and consolidate the act 50 Victoria, chapter 43, respecting the said corporation, and to grant it further and better defined powers ;

And whereas it is expedient to grant such prayer ;

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

PRELIMINARY TITLE

TRANSITORY PROVISIONS

1. The corporation hereby constituted succeeds to the Corporation rights, privileges, obligations, property, claims and actions of the corporation existing under the act repealed by this act, and this act shall not have the effect of dissolving the latter corporation. Corporation succeeds to that under repealed act.

2. The directors, officers and employees of the said corporation shall remain in office until dismissed or replaced by competent authority. Present officers, &c.

3. The by-laws lawfully in force, resolutions or orders whatsoever passed by the said corporation, which are not inconsistent with this act, shall continue to have full effect, until annulled, amended, repealed or carried out. Present by-laws, &c.

4. All engagements, agreements, obligations or deeds whatsoever, subscribed, endorsed, accepted or contracted by the said corporation, shall have all their legal effect, notwithstanding the passing of this act. Engagements &c., to be carried out, &c.

TITLE I

ORGANIZATION OF THE CORPORATION

SECTION I

Bailiffs incorporated

5. All the sworn bailiffs of the Superior Court, residing and practising in and for the district of Montreal, and the Corporation constituted.

- bailiffs who may hereafter be admitted to practise therein as such, are hereby constituted a corporation under the name of "The corporation of the bailiffs of the district of Montreal."
- Name.**
- Head office.** **6.** The head office or principal place of business of the corporation shall be in the city of Montreal.
- Seal.** **7.** The corporation shall have a common seal bearing its corporate name as an inscription.

SECTION II

Council of the corporation.

- Council and its composition.** **8.** The council of the corporation shall consist of five members, including the secretary-treasurer. An assistant secretary-treasurer may be appointed by the council to replace the secretary-treasurer in the latter's absence; such assistant secretary-treasurer shall form part of the council, when he replaces the secretary-treasurer.
- Officers.**
- Quorum.** **9.** The quorum of the council shall be three members.
- Election of members.** **10.** The members of the council shall be elected yearly, at the general meeting, which shall be held on the first Wednesday of the month of August. They are eligible for re-election.
- Election to be by ballot.** **11.** The election of the members of the council shall be by ballot, if there be more candidates than there are vacancies to be filled.
- Titles of members.** **12.** The titles of the members of the council shall be determined by by-law.
- Filling of vacancies.** **13.** Every vacancy in the council which shall occur during the year, shall be filled by the council itself within the fifteen days following such vacancy.
- If not filled.** Should the council fail to fill such vacancy within the aforesaid delay, it may be compelled so to do by any legal means by any member of the corporation.
- Who cannot be member of council.** **14.** No person can be elected a member of the council if he be indebted towards the corporation in any sum of money.
- Functions gratuitous.** **15.** The functions of the members of the council shall be gratuitous. The council may, however, vote a salary to the secretary-treasurer and to his assistant.
- Salary of secretary-treasurer.**

SECTION III

General meetings

16. Two general meetings shall be held each year ; one on the first Wednesday in February, and the other on the first Wednesday in August, and, should such days be non-judicial days, the meeting shall be held on the following juridical day. General meetings and when to be held.

17. The quorum of the general meeting shall be twelve members. Quorum.

18. No member can take part in the proceedings or vote at the general meeting, if he owes any contribution, fines or costs to the corporation. Who cannot take part.

SECTION IV

Sittings of the council

19. The council shall have a sitting on the first Monday of each month, or on the following juridical day. Monthly sittings of council.

20. The members of the corporation may attend the sittings of the council. Members of corporation may attend.

21. Special sittings of the council shall be determined by by-law. Special sittings.

TITLE II

POWERS OF THE CORPORATION

22. The corporation possesses all the powers conferred on civil corporations by the law of the country. Corporate powers.

23. The corporation can own immoveable property, only to the extent of twenty thousand dollars. Immoveables.

24. It also shall also have the right to hypothecate such immoveables. Power to hypothecate.

25. The corporation has power to consent to, subscribe and endorse, execute and issue promissory notes, bonds drafts, obligations or other undertakings within the limits of its powers and in accordance with its statutes and by-laws. Power to sign promissory notes, &c.

26. The powers of the corporation are exercised by its council unless there be special provisions to that effect. Powers by whom exercised.

Power to dismiss, &c., members.

27. The corporation has power to suspend and dismiss any of its members, in accordance with its by-laws. Every suspension or dismissal shall be decided by a majority of the votes of the members composing the board of examiners; and to that end the board may summon and hear witnesses under oath.

Amendment &c., of by-laws.

28. The corporation has power to amend and repeal existing by-laws.

Additional powers as to by-laws.

29. In addition to the powers conferred on it by law, the corporation shall have power to make by-laws for the following objects :

1. To impose a fine, not exceeding twenty dollars, for every infringement of the law and the by-laws ;

2. To determine the procedure to be followed at the elections, which shall be held by ballot ;

3. To appoint auditors from amongst the members of the corporation, and define their duties ;

4. To fix the contributions of all kinds to be paid by members and by candidates for admission to practice ;

5. To determine the causes whereby the seat of a member of the council shall become vacant, and the procedure to be followed to fill such vacancy ;

6. To determine the qualifications, mode of admission or re-admission, conduct, suspension and expulsion of members of the corporation ;

7. To fix and determine the method and programme of the examinations for admission to practice ;

8. To provide for the replacing of examiners ;

9. To fix the salary of the examiners, the secretary-treasurer and the other officers of the council, if necessary, as well as the fees of the secretary for copies of documents ;

10. To determine the conditions and the amount and nature of the security to be given by the secretary-treasurer and the assistant secretary-treasurer ;

11. To increase or diminish the quorum of the general meetings as well as that of the council ;

12. To increase the number of its councillors, provided such members do not exceed nine ;

13. To determine what shall constitute an act derogatory to the honor of the profession ;

14. To determine for what causes a bailiff can be removed or suspended ;

15. To determine what shall be the duties, occupations or trades inconsistent with the office of bailiff ;

16. To determine the procedure to be followed in making by-laws ;

17. To fix the sums which the council may spend without the authorization of the general meeting ;

18. To determine the qualifications of the members of the council as well as those of the examiners.

TITLE III

EXAMINATIONS

30. The examination of candidates for the practice of the profession of bailiff shall be under the control of the corporation. Examination under control of corporation.

31. At the general meeting in the month of August in each year, seven examiners shall be chosen from amongst the members of the corporation who have practised for over five years. They shall be eligible for re-election. Appointment &c., of examiners.

The seven examiners shall, with the council, constitute a board of examiners. Board of examiners.

32. The examinations shall take place twice a year ; on the second Wednesday of the months of January and July, and shall be continued on the following days, if necessary. When examinations are held.

33. The board of examiners shall appoint three of its members to examine the candidates whenever it shall be necessary to hold such examinations. Appointment of members by board.

34. Such three examiners shall send in a report in writing on the examinations within a delay of eight days. The report shall be submitted to the board of examiners, whose quorum shall be nine members. Report respecting examinations. Quorum of board.

35. The board shall revise the above report and decide by a majority of votes whether the examination is satisfactory. Revision of report, &c.

When the votes are equally divided, the candidate shall be rejected. The president of the board shall vote only as a member. If votes equal.

36. The board of examiners shall report to the council within the fifteen days following the close of the examinations. Report to council.

Certificate if
candidate
found quali-
fied, &c.

37. If the candidate be declared qualified, the council shall deliver a certificate to him, which shall be of no effect without being confirmed by a judge of the Superior Court, at the expense of the candidate, upon a petition, notice of the presentation whereof shall be given to the council of the Bar and the corporation eight days previously.

TITLE IV

BY-LAWS

By-laws how
passed.

38. The by-laws made by the corporation shall be voted by two thirds of the members present.

Posting of by-
laws, &c.

39. Every draft of a by-law shall be posted up and deposited in the office of the corporation and in the office of the prothonotary during the whole month preceding the meeting at which such draft or by-law is to be presented, and in the first eight days a notice of such deposit shall be given to all the members of the corporation.

Approval of
council of Bar
of Montreal
required, &c.

40. The by-laws shall be approved by a resolution of the council of the Bar of the Montreal section, and shall come into force only after such approval and the expiration of thirty days from their publication.

Council of the
Bar may re-
peal by-laws.

41. The council of the Bar shall also have power, at any time, to repeal any by-laws by resolution; but previous notice of eight days at least shall be given to the corporation. The notice shall mention the by-law or by-laws which the council intends to repeal.

Publication
of by-laws.

42. The publication shall be effected by a public notice inserted twice in an English newspaper and in a French newspaper, published in the city of Montreal, within eight days following the adoption of the by-law. Such notice shall also be posted up in the same delay in the office of the prothonotary of the Superior Court.

Notice how
given.

Such notice shall be given over the signature of the secretary-treasurer and shall mention the object of the by-law, the date at which it has been passed, and the place where communication may be had of it.

How long by-
laws remain
in force.

43. The by-laws shall remain in force until amended, quashed or set aside by competent authority.

How by-laws
are repealed.

44. The repeal or amendment of a by-law cannot be effected except by another passed in the same manner.

45. Any member of the corporation in good standing may contest a by-law on account of illegality. Contestation of by-laws.

46. The procedure on such contestation shall be subject to the provisions of articles 4389 and following of the Revised Statutes of the Province of Quebec, and of the articles to which they refer. Procedure on such contestation.

47. Such by-laws shall be transcribed into a special register kept in the office of the prothonotary of the Superior Court. Transcription of by-laws in register.

TITLE V

SECRETARY-TREASURER

48. The secretary-treasurer of the council shall be at the same time secretary of the general meetings, and shall also be the secretary of the examiners. The same rule shall apply to the president of the council. Secretary-treasurer.

49. During the fifteen days following his appointment, the secretary-treasurer shall give the corporation the security fixed by it, to secure the faithful performance of his duties, and he shall also, within the same delay, take oath to faithfully perform the duties of his office. Security to be furnished by him and oath to be taken.

50. The assistant secretary shall also take oath and give the security fixed by the by-laws. Security and oath by assistant-secretary.

51. In so far as the duties and obligations of the secretary-treasurer are concerned, articles 4325, 4336 to 4340 inclusively, 4342, 4345, 4346, 4348 and 4349 of the Revised Statutes of the Province of Quebec shall apply *mutatis mutandis*. Articles of Revised Statutes applicable to secretary-treasurer.

TITLE VI

MISCELLANEOUS PROVISIONS

52. Every service upon the corporation shall be made at the office of the corporation or elsewhere upon its president or secretary-treasurer. Services upon corporation.

53. Every suit against the corporation as surety for one of its members shall be commenced within the six months following the act that has given rise to such claim, or from the day on which the claimant has had knowledge of such act. Prescription of suits against corporation.

Notice of suit
and what to
contain.

54. Every suit against the corporation for the reasons mentioned in the foregoing article must be preceded by a notice of fifteen days. Such notice shall contain a description of the claimant, a description of the bailiff in default and give the details of the claim.

Default of
notice.

In default of such notice the corporation shall not be responsible for any costs upon such suit if it do not contest the same.

Suits to re-
cover moneys
due to cor-
poration.

55. Every sum due to the corporation may be recovered by ordinary suit, and the certificate of the secretary-treasurer shall be *prima facie* evidence of its contents before all courts.

Fiscal year.

56. The corporation's fiscal year dates from the first of August.

Table of prac-
tising bailiffs
to be posted.

57. A table containing the names of all the bailiffs who have the right to practise shall be constantly posted up in the office of the prothonotary of the Superior Court; and such table shall be corrected immediately whenever a member is admitted, removed or suspended. It shall be signed by the secretary-treasurer.

Appeal to Su-
perior Court
from decision
removing bail-
liff.

58. An appeal shall lie by petition to the Superior Court from any decision of the board removing a member or suspending him for a term exceeding three months. Such appeal must be taken within thirty days of the decision.

Delay
thereon.

The delays on proceedings of such petition shall be the same as in summary matters.

Evidence.

Additional evidence may be taken on such appeal.

Appeal from
decision of
Superior
Court.

59. An appeal shall lie to the Superior Court, sitting in review, from the final judgment rendered by the Superior Court on such appeal.

Reinstating
members.

60. No member who has been removed or suspended shall be reinstated until he has paid to the corporation all arrears of contributions and all sums paid by the corporation on his behalf.

Signature to
documents,
&c.

61. All documents, orders, resolutions, by-laws, contracts or writings whatsoever shall be signed by the president of the council and by the secretary-treasurer.

Resignation
of members.

62. Any member who wishes to cease to practise shall give notice in writing to the corporation, and he shall be indebted for his contributions up to the date of such notice, a fraction of a year being counted as a full year.

TITLE VII

BAILIFFS' SECURITY

63. The existing law respecting the security for bailiffs and the obligation of the corporation to be security for its members is maintained in force. Present law respecting security maintained.

FINAL PROVISIONS

64. All existing laws respecting the corporation are repealed, but nothing in this act shall have the effect of relieving the corporation or any of its members from the superintending and reforming power, orders and control vested in the Superior Court in the manner and form prescribed by law. Repealing clause. Control of Superior Court.

65. Bailiffs shall continue as formerly to be officers of the courts of justice, and shall remain subject to the jurisdiction of the courts and of the judges. Bailiffs to be officers of justice.

66. The powers hereby conferred upon the corporation shall not prevent any one who may have reason to complain of the conduct of any bailiff in the exercise of his duty from having such bailiff dismissed by the Superior Court upon summary petition. Dismissal of bailiff upon petition to Superior Court, &c.

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

CHAP. 44

An Act to amend the Municipal Code respecting the erection of municipalities

[Assented to 26th March, 1902]

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

1. The following section and article are added to the Municipal Code after article 92 : Section and art. added after M. C., 92.

" GENERAL PROVISION

" 92a. The council of a county may, upon petition of a local council, pass, after public notice, a by-law for the purpose of changing the name of a local municipality, for Change of name of local municipality,