

“ **335.** In all cases where, in any action or summons in civil or penal matters, there shall be variance between the allegation and the proof relating to the Christian or surname, the addition, description, or residence of any person mentioned in such action or summons, or to any other fact alleged in such action or summons, the court may, at any time, before, during, or after the *enquête* or before judgment, upon application to that effect made by an interested party, direct the amending of such action or summons, if necessary, and allow the adverse party a sufficient delay to prepare a defence to the action or summons so amended, if the party require it for the ends of justice.”

Amendment
of suit, &c.,
in certain
cases.

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

Coming into
force.

C A P. L V I I .

An Act to amend the charter of the town of Maisonneuve.

[Assented to 27th February, 1893.]

WHEREAS the town of Maisonneuve has, by its petition, prayed for the passing of an act to amend its charter, and it is expedient to grant its prayer;

Preamble.

Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

1. Subsections 2 and 3 of section 7 of the act 51-52 Victoria, chapter 89, are replaced by the following:

51-52 V., c. 89,
s. 7, amended.

“ 2. To regulate the construction, dimensions, and height of the chimneys above the roofs, or even, in certain cases, above the neighbouring houses and buildings, and authorize the building inspector to regulate within what delay, by whom and in what manner they shall be raised, repaired or built.”

Chimneys.

“ 2a. For the regulation and inspection of the construction and repair of houses, and buildings in the city which are built, are being built, or which may hereafter be built, the mode of constructing them, the materials to be employed, the fire escapes to be placed therein, for the appointment of a building inspector with power to examine the interior and exterior of all buildings, to repair, alter, cause, to be vacated, to isolate or demolish every dangerous building or chimney, and to determine and give to such inspector all the powers necessary for his office; to impose a fine not exceeding ten dollars for each day's delay in complying with the orders of the said inspector, in accordance with the by-laws of the council.”

Construction
of houses, &c.

Sewers.

" 3. To levy, by assessment, the money sufficient for making or repairing one or more common sewers, connections and other accessories, in all the streets of the town, whether opened or not to the public, upon all owners of lots situated on such streets, or have such work done, in whole or in part, at the expense of the corporation ; regulate the mode of collecting such taxes, with or without delay for payment ; and regulate the manner of making such sewers, the materials to be employed, both for private drains and every other accessory, including connections, whether they be made by the town or by the proprietors.

Excavations in streets for certain purposes.

" 3a. The council shall have the necessary powers for excavating in any of the streets of the town, for laying pipes or other things, and may use the said streets, in any manner and do any work whatsoever therein, whether it be the proprietor thereof or not, provided such streets have been opened to the public for over five years.

Agreements as to assessments for sewers, &c.

" 3b. The council may enter into any agreement, which it may deem expedient, in the interest of the town, with the proprietors, with reference to the payment of the assessment for sewers as to the construction or connection of such sewers or other works."

Power of council to have works done, if proprietor neglects to demolish, &c., houses.

2. Whenever a proprietor or occupant of lands or building refuses or neglects, within the prescribed delay, to have the building, demolishing or other work done which has been ordered by the council or its officers, under the law or by-laws, or cannot do the same owing to absence, poverty or other reasons, the council or its officers may have such work done, and collect the cost thereof from the person or persons who were bound to perform such works, with the same privileges and hypothecs as ordinary taxes, with interest at six per cent.

Power of council to :

3. The council may make by-laws for the following purposes :

Regulate, &c., dangerous factories, &c.;

a. To regulate or prohibit the erection, use, working or inspection of any establishment, manufactory, industry or trade of a dangerous or hurtful nature or of a nature to endanger the public health and safety, or generally considered as such, and to impose a fine, not exceeding one hundred dollars, for every day that the infringement of any by-law made under this section shall last, with an imprisonment not exceeding one month, in default of payment.

Cause property to be fenced, &c.;

b. To compel every proprietor of an hotel, restaurant, or house of public entertainment, to fence in his property and to inclose his yards, privies, and dependencies, so as not to be exposed to public view, and, in default, to impose a fine, not exceeding twenty dollars, or fifteen days imprisonment, for every infringement of such by-law.

c. To compel persons owning or using steam engines, boilers, manufactories, chemical products or other establishments to provide with them smoke and gas consumers or other apparatus, so as to remove everything that may be injurious to the public, and, in default, to impose a fine, not exceeding one hundred dollars, for every day that the infringement of any by-law made under this section shall last, with imprisonment, not exceeding one month, in default of payment.

Compel use
of smoke con-
sumers;

d. To regulate the sale, weight, quantity, quality, weighing, measuring of lumber for building purposes, sawn lumber, cord wood, coal, lime, building materials, hay, grain, milk, bread, salt, spices, meat, fowl, game, produce or any other article or product whatsoever brought, exposed or offered for sale or intended to be sold, in the town, by strangers or by residents; and to confiscate any article, not in accordance with the by-law to be made under this section in addition to any fine which may be imposed. The council shall also have the right to authorize its officers to examine anything coming under this section, in any part of the town whatsoever.

Regulate sale
&c., lumber,
&c.;

e. To impose a sum, not exceeding one hundred dollars per diem, for obtaining permits, under the by-laws or the resolutions of the council or the law.

Exact certain
sum for per-
mits;

f. To prohibit entirely, or limit the number of licenses, or to locate the houses licensed for the sale by retail of spirituous, alcoholic or intoxicating liquors, and impose all the restrictions and conditions, which it may deem advisable, upon such commerce.

Prohibit, &c.,
sale of liquor;

The council shall have full discretion as regards granting or refusing the confirmation of the license certificate.

Grant, &c.,
license certi-
cate.

4. The council may, by resolution, when it deems expedient in the interest of the town, enter into any agreement whatsoever with one or more proprietors, either to regulate the manner of evaluating his or their real estate, or establish the amount at which the same shall be estimated, or to regulate the mode of taxing real estate, for ordinary or special taxes, or determining the amount at which it shall be taxed for a specified period.

Agreements
respecting
valuation of
real estate.

It may also, by resolution, determine the delay and manner of collecting all special taxes.

Collecting
special taxes.

The same right is granted to the school commissioners for the town of Maisonneuve.

Applies to
school com-
missioners.

5. The town may supply electric or other light to the residents of the town or to persons residing outside, at the price and on the conditions fixed by the council. The collection of the price to be paid for such light shall be effected

Supply of
light, &c.

in the same manner as for the water-rates, with the same privileges. The council may however determine the mode of collection. No person, however, shall be bound to take the said light.

Plan of the town.

6. The plan of the town, made by Emile Vanier, provincial land surveyor, and homologated on the 22nd of October, 1891, by the Superior Court, in Montreal, is and shall be known as "the general plan of the municipality of the town of Maisonneuve."

Name.

Limits of town as shewn on plan.
Exemption.

The limits shown upon the said plan are and shall remain the limits of the said town ; but, on the river St. Lawrence side, its limits shall extend to the middle of the said river.

Discount on taxes.

7. It shall be lawful for the council of the town to grant a discount, to facilitate the payment of municipal taxes of all kinds, not exceeding five per cent.

Id., on school taxes.

The same privilege is granted to the school commissioners of the town, for the collection of school taxes.

Provisional appropriations.

8. Every year during the month of December, the council shall grant provisional appropriations, intended to cover the ordinary current expenses of the town, for the period of the fiscal year between the first day of January following and the date when the final appropriations shall be determined.

Annual appropriations.

At one of the meetings, which shall immediately follow the elections, the council shall vote the necessary amounts to meet the expenses of the current fiscal year, by providing :

1. For the payment of the interest on the debts due by the town and the sum required, during the year, for the sinking fund, if there be any ;
2. For the general and ordinary expenses of the town ;
3. The sum required for projected improvements ;
4. For a reserve fund out of the gross receipts of the previous year, which shall be exclusively used in meeting unforeseen expenses.

No moneys of this reserve fund can be expended without a favorable report of the finance committee, adopted by the council.

Limit of appropriations.

9. The amount, so appropriated, shall never exceed the amount of the receipts of the previous year, added to the unexpended balance of the said receipts, and the council or its committees cannot expend more than the total amount so appropriated ; but the council may alter the mode of expending the sums allowed to each committee, by taking away from one and giving more to another, and make any by-law in connection with the administration of the finances of the

town, the manner in which the appropriation shall be distributed, and the jurisdiction of the finance committee.

10. Every member of the council who effects, authorizes or approves the expenditure of a sum of money beyond the amount to appropriated and of the sums at the disposal of the council, or of any committee under the preceding section, is personally responsible therefor. Responsibility of members of council exceeding limit.

This section shall not apply to loans, nor to the cases provided for in the following section. Application of section.

11. In case of urgent necessity, the council may, by a by-law, appropriate any amount, which it may deem necessary, over and above those at its disposal; provided that by such by-law an additional assessment be imposed, payable during the year in which the by-law shall be passed, sufficient to cover the amount, so appropriated; and such assessment shall be levied, recovered and collected in the same manner as the ordinary taxes and assessments, and with the same privileges; but the imposition of such supplementary tax shall not do away with the personal responsibility of the councillors who shall have infringed the foregoing sections. Urgent expenditure.

12. Section 15 of the act 46 Victoria, chapter 82, is replaced by the following: 46 V., c. 82, s. 15, replaced.

“**15.** It shall be lawful for the town to borrow, upon the credit of the town, such sum or sums of money as the council may deem advisable to borrow, in order to effect improvements in the town, to erect public buildings, to drain streets, or provide the town with water and light, and finally for all purposes which the council may deem useful or necessary; but the amount borrowed and remaining unpaid shall not, at any time, exceed twenty per cent of the total assessed value of the real estate in the town.” Power to borrow for certain purposes.

13. The contestation of any valuation or assessment roll, whether general or special, of any by-law, resolution, or other act of the council in any manner, is prescribed by thirty days from the date on which such by-law or rolls came into force, or from the date of such act or resolution of the council. Prescription of contestation of rolls.

14. No prosecution, action or suit against the town, in connection with claims for damages, shall be taken or brought unless a previous notice of thirty days, specifying the object and the amount of the demand, has been served upon it. Notice of suits for damages.

46 V., c. 82, s. 45, and 51-52 V., c. 89, s. 5, replaced.

15. Section 45 of the act 46 Victoria, chapter 82, and section 5 of the act 51-52, Victoria, chapter 89, are replaced by the following :

Power of council as to opening, &c., streets, &c.

“ **45.** It shall be lawful for the council of the town, at any time, within the whole extent of the limits of the municipality, to cause public streets, by-roads, avenues, squares and boulevards to be laid out and opened ; to widen, alter the level of, straighten or extend those already in existence, and for that purpose to acquire or expropriate the necessary grounds, either at the expense of the corporation, in whole or in part, or at the expense of the parties benefited, in whole or in part ; provided that when the works or improvements are charged to a portion only of the inhabitants of the town, as the parties benefited, the latter may, by petition served upon the council, within the fifteen days following the publication of the limits of the parties benefited, and signed by two thirds in value and the majority in number of the said parties, oppose the projected expropriation ; in such case, the expropriation cannot take place, unless the town pays one half of the total cost of such expropriation.

Proviso.

Special tax.

A special tax may be imposed upon the parties benefited, according to the amount of the benefit they derive from the improvement.

Appointment of arbitrators.

“ **45a.** Immediately after having decided upon an expropriation, the town shall, by a petition, presented to a judge of the Superior Court of the district, cause three competent and disinterested persons to be appointed, one of whom shall be selected from amongst the names suggested by the town, and another from amongst those suggested by the proprietor or proprietors, if they have suggested any, to act as arbitrators, which arbitrators shall settle and determine the price or compensation to be granted for each such immovable to be expropriated. But such petition shall be preceded by a public notice, of at least ten days, published in the usual manner.

Proceedings by arbitrators.

“ **45b.** After having been sworn, the arbitrators shall determine the limits, within which the lands are situated, which benefit by the improvement ; they shall publish the limits so fixed by them in the usual manner.

Preparation of assessment roll.

“ **45c.** When necessary, the arbitrators shall, after having made their report and deposited it in the office of the council, in accordance with article 4566 of the Revised Statutes, make out an assessment roll for the purposes of apportioning, in the manner which they may deem the most fair and reasonable, the whole cost of the expropriation, all the expenses being included, in whole or in part, as the case

may be, upon all the immoveables placed within the limits already published, according to the amount of benefit each immovable shall have derived from the improvement. In making such apportionment the arbitrators shall not take the buildings into consideration."

"**45d.** When a proprietor makes over, gratuitously, a lot of land to the town for a street through his property, the remainder of his property fronting on the new street may, by resolution of the council, be wholly or partly exempted from the apportionment rendered necessary by the opening of the new street, provided the part exempted is not more than one hundred and fifty feet in depth." Certain property may be exempted from such assessment.

"**45e.** The roll signed by the arbitrators shall remain deposited in the office of the council for fifteen days after public notice thereof shall have been given in the usual manner. When this delay has expired, if any complaint, in writing, has been made, the arbitrators shall decide whether any changes are to be made in the roll or not; they shall, afterwards, confirm the roll in a final manner." Deposit of roll and notice thereof.

"**45f.** The said roll shall come into force from the latter date, and the secretary-treasurer shall collect the assessment in the usual manner and with the privileges attached to ordinary taxes and assessments." Coming into force of roll.

The council may, nevertheless, as it may deem expedient, determine the time and manner of collecting such taxes." Time and manner of collecting tax.

16. Section 147 of the act 46 Victoria, chapter 82, is replaced by the following : 46 V., c. 82, s. 147, replaced.

"**147.** Articles 4227, the last paragraph of article 4241, articles 4242, 4243, 4244, 4247, 4251, 4253, 4254, 4255, 4256, 4257, 4258, 4262, 4263, 4264, 4414, 4452, 4530, 4554, 4555, 4556, 4557, 4558, 4565 of the Revised Statutes shall not apply to the town, and are specially excepted, and all provisions of the Municipal Code of this Province, not inconsistent with this act and with the Town Corporations General Clauses Act, shall apply thereto and form part thereof." Application of certain statutes to town.

17. In every municipal election for the office of mayor or councillor, for the town, voting shall be by ballot; and, for that purpose, articles 223 to 226 inclusively, 252 to 258 inclusively; 269, 274 and 275, by replacing the words: "twenty-five," in the two latter articles, by the word: "seven;" 276, 277, 285, 286, 292 to 307 inclusively; 308 to 318, by substituting the form contained in article 4250 of the Revised Statutes, to that contained in the said article Voting at municipal election to be by ballot, &c., law applicable.

318; 319 to 356 inclusively; 357, by replacing the words: "Clerk of the Crown in Chancery," in the latter of these articles, by the words: "Council of the town of Maison-neuve"; 364, by replacing the words: "in case the applicant deposits, within the same time, with the clerk of the court, the sum of fifty dollars," at the beginning of the second paragraph of the said article, by the following: "if the applicant give good and sufficient security"; 365 to 370, by replacing the words: "Clerk of the Crown in Chancery," in the latter of these articles by the following: "council of the town of Maisonneuve"; 371, 375, 377, 381, 391, 392, 395 to 406, inclusively, of the Revised Statutes, being the "Quebec Election Act," shall apply to the said elections, *mutatis mutandis*

Secretary-treasurer to act as returning officer with certain powers.

The secretary-treasurer or the person mentioned in article 4236 of the Revised Statutes shall, in all cases, act as returning officer, with all the powers of deputy-returning officers.

Coming into force.

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

C A P. L V I I I.

An Act to amend the act 54 Victoria, chapter 82, amending the charter of the town of St. Germain de Rimouski.

[Assented to 27th February, 1893.]

Preamble.

WHEREAS there is an error in the English version of the act 54 Victoria, chapter 82, section 8;

Whereas the said error consists in the word "Monday," having been inserted instead of the word "Wednesday;"

Whereas the said error does not exist in the French version of the said act, the original manuscript of the said chapter 82 having been drawn up in the French language, and it is expedient to make the English version agree with the French version of the said act;

Whereas to remove all doubts it is expedient to validate the municipal elections for the said town, which were held at the date fixed by the French version of the said act;

Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

English version of 54 V., c. 82, s. 8, amended.

1. The English version of section 8 of the act 54 Victoria, chapter 82, is amended by replacing the word "Monday" by the word "Wednesday."

Elections hitherto held declared valid.

2. The municipal elections of the town of St. Germain de Rimouski, which were held on the date fixed by the French