

CAP. XXXII.

An Act to amend the Acts relating to the Corporation of the City of Montreal, and for other purposes.

[Assented to 23rd December, 1871.]

WHEREAS the corporation of the city of Montreal have, Preamble.
by their petition, represented that it has become necessary, in the interest of the citizens of the said city, to make certain alterations to its Acts of incorporation; Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

1. The act thirty-fourth Victoria, chapter thirty-seven, is 34 V. c. 37, amended.
amended so as to give to the corporation of the said city of Montreal, the power to aid Railways by the granting Power to grant bonus in aid of railways.
of a bonus, if it prefer such method to a loan or a subscription to the capital stock.

2. When a by-law shall have been adopted by the council Holding of polls and voting for or against a by-law in aid of any railway company.
of the said city, by a majority in a meeting composed of at least fifteen members of the said council, to aid any railway company, the council of the said city shall fix and determine, by resolution, to be also adopted in the same manner as aforesaid, that there shall be twenty-one polling places established and opened in the building known as the Bonsecours Market, of the said city, namely: A polling place for each of the wards, East, Centre and West, and three polling places for each of the other wards of the said city of Montreal to receive the votes, by "Yea" and by "Nay" of the electors of each of the said wards respectively, during ten juridical days to be specified in the said resolution, from the hour of nine o'clock in the morning until five o'clock in the afternoon each day; the city clerk shall be *ex-officio* returning officer; and the mayor of the Returning officer.
said city or pro-mayor, in the event of the absence of the mayor, or of his incapacity to act, shall appoint one deputy returning officer, and in case such returning officer or the deputy returning officer, so appointed, should become incapable of performing his duties, from sickness or any other valid cause, the mayor, or pro-mayor, as the case may be, is hereby authorized to appoint another person in his place; and such person shall have the same powers as the said returning or deputy returning officer; the mayor or the pro-mayor of the said city, as the case may be, shall appoint for each poll a clerk, and shall require him to make Poll clerk.
oath to act faithfully and impartially, and it shall be the duty of such clerk to enter in a book specially pre-

pared for that purpose, the names of the voters and their vote by "Yea" and "Nay"; and no person shall be qualified to vote on such by-law whose name shall not be inscribed as a qualified voter on the revised municipal lists in force at the time of taking such vote, and who shall not be qualified to vote for the election of a member of the said council; provided that such person shall, if required by any qualified elector, or by the returning officer, or by the deputy returning officer himself, take the following oath or affirmation which such returning officer, deputy returning officer, or clerk is hereby empowered to administer:

Qualification of voters.

Oath may be administered.

Oath.

"You swear (or solemnly affirm) that you are (*name, occupation, and residence of voter, as entered on the list,*) whose name is entered on the list of voters, now shewn to you (*showing the list to the voter*) that you are of the full age of twenty-one years; and that you have not before voted on this by-law, either at this or any other polling place: so help you God."

How daily and final number of votes shall be ascertained.

3. After the close of each day's polling, the said poll clerks shall count and add up, in the said poll books, the total number of votes which they shall have respectively recorded during each such day, and shall draw up a certificate thereof, which they shall register in the said registers or poll books, of which certificate a duplicate shall be delivered each day to the returning officer, and they shall deliver the said poll books, after each day's polling to the returning officer, who shall be bound to keep the same safely, and within twenty-four hours from the final closing of the poll, the poll clerks shall count and add up in the poll books the total number of votes taken by them respectively, and shall deliver the said poll books to the returning officer, who shall thereupon ascertain the state of the general poll, by counting and adding up from each poll book the total number of votes taken and recorded in the different polling places, and the returning officer shall forthwith draw up a certificate of the total number of votes so taken and recorded, setting forth the approval or disapproval of the electors, which certificate shall be, by him, transmitted to the mayor of the said city who shall sign and have the same countersigned by the clerk, and under the seal of the said city, and the said clerk shall record the said certificate in the registers or minutes of the said corporation, and deposit the said poll books in the archives of the said corporation, and from and after such time, in the event of the majority of the said voters having approved the said by-law, as established by the certificate of the said returning officer, the said by-law shall have force and effect, and shall be held to have been fully and legally approved and confirmed.

Certificate of the final result of the voting.

By-law held to be approved if a majority voted for it.

4. Any law, now in force for the proper management of municipal elections in the said city, and the maintenance of order during such elections, and which are not contrary to the provisions of this act, shall apply to the elections to be held under this act.

5. It shall be optional with the said council of the said city, to aid railway companies in establishing a railway line or right of way, through the said city, to connect together the eastern and western extremities of the said city, and of the harbour of the said city, and a station or central terminus, within the limits of the said city, and, for such purpose, to acquire, by the ordinary process of expropriation, or by amicable settlement, the land required to establish the route of said railway line, and such station or central terminus; and power and authority are hereby granted to the said council to fix and determine the time and manner the locomotives and trains of the said companies shall pass on the said line, within the limits of the said city; and to regulate the kind of engines to be used by the said companies on the said line, and to establish the conditions upon which the said companies may use the said line and station; and also to exact from such companies the payment of such duties, rates and tolls, as may be established by the said council, to defray the cost of the establishment of such railway line or right of way, and of such station or central terminus.

6. The twentieth section of the act passed in the thirty-second year of the reign of Her Majesty, chapter seventy, is hereby amended and modified in so far as it relates to the plan and the extent of the "Mount Royal Park," and to the lithographed copy, made by John Johnston, in November, one thousand eight hundred and sixty-seven, of the plan made and executed by P. Macquisten, esquire, city surveyor, the said lithographed copy lying in the office of the clerk of the legislative council of this province; and for such plan and lithographed copy mentioned in the said section, there shall be substituted the plan, made by the said P. Macquisten, esquire, city surveyor, dated the sixteenth day of November, one thousand eight hundred and seventy-one, signed by the mayor, countersigned by the city clerk and with the seal of the said city thereunto affixed, and filed the twelfth day of December, one thousand eight hundred and seventy-one, in the office of the said clerk of the legislative council; and the said council of the said city is hereby authorized to carry out the last mentioned plan, in place of the former, and to acquire, under the ordinary process of expropriation, or by amicable settlement, the right of way and the streets and avenues,

Present elec-
tion regula-
tions to apply.

Power to aid
railways by
establishing a
line connecting
the east and
west ends of
the city, to
acquire land,
&c., to regulate
the passage
over the line
and to exact
tolls, &c.

Sec. 20 of 32
V., c. 70,
amended by
the substitu-
tion of a dif-
ferent place.

Powers of
expropriation
for purposes
of the Park.

leading to the said "Mount Royal Park," and to assess and cause to be apportioned by the ordinary way in matters of expropriation, the cost of acquiring such streets and avenues, in whole or in part, upon the proprietors benefited, and upon the Park itself, in proportion to the advantage or benefit which it shall derive therefrom in the opinion of the commissioners, and to include within the limits of the said city certain real estate considered indispensable for the establishment of the aforesaid park, streets and avenues; and the eleventh section of the twenty-ninth and thirtieth Victoria, chapter fifty-six, and the ninth section of the thirty-first Victoria, chapter thirty-seven, shall not apply to the improvements contemplated in the present section; provided also that the council of the said city shall have full authority to sell by public auction only, a portion of the land acquired for the purposes of the said park, not to exceed however, two hundred and fifty acres of the grounds which shall have been acquired, as aforesaid; provided always that the council may leave in the hands of the proprietors such pieces or parcels of land included in the park as it may deem inexpedient to acquire by reason of the expensive improvements thereon, or the particular way in which the lots may be subdivided, the said council is also hereby authorized, in case the sum which it is empowered to levy, viz: three hundred and fifty thousand dollars, for the purposes of the said park, by the twentieth section of the act thirty-second Victoria, chapter seventy, shall be insufficient for the acquisition of the land required for the said park, to issue bonds, debentures, or shares of the city of Montreal consolidated fund, or to grant mortgages on the said land, for any sum exceeding that already authorized to be issued as aforesaid; and all the provisions contained in the said twentieth section, of the said act, thirty-second Victoria, chapter seventy, for the issue of bonds, or debentures, the payment of interest and the mortgaged claim given to the amount of the loan, shall apply to the loan authorized in the present section.

Sec. 11 of 29,
30 V. c. 57
and sec. 9 of
31 V. c. 37 not
to apply to
improvements
under present
section.

Power to sell
part of the land
to be acquired.

Sec. 20 of 32
V. c. 70.

Power to raise
money in
addition to
sum already
authorized.

§12 of sec. 13
of 27, 28 V. c.
60 amended.

Recourse of
party exprop-
riated in the
event of error
on the part of
the commis-
sioners as to
the amount of
indemnity and
proceedings.

7. Sub-section twelve of clause thirteen of the act twenty-seventh and twenty-eighth Victoria, chapter sixty, is amended by adding at the end of the said clause the following words, to wit: "for the purposes of the expropriation"; but in case of error upon the amount of the indemnity only on the part of the commissioners, the party expropriated, his heirs, and assigns, and the said corporation may proceed by direct action in the ordinary manner to obtain the augmentation or reduction of the indemnity, as the case may be; and the party expropriated shall institute such action within fifteen days after the

homologation of the report of the said commissioners, and if, upon such action the plaintiffs succeed, the corporation shall deposit in court the amount of the condemnation, to be paid to the party or parties entitled thereto; and the said corporation may, within three weeks after the publication of the said report, abandon the proceedings in expropriation, and, in such case, it shall be held to indemnify the party expropriated for the damages by him sustained up to that moment, or they may, within the said delay of three weeks, prosecute their action for reduction of indemnity, as aforesaid; and, if, in the public interest, the corporation deem it advisable to have the report homologated, in order to deposit the amount of the indemnity, and take possession of the immovable expropriated, while protesting, however, against the amount of the said indemnity as excessive, the party expropriated or his creditors shall not touch the amount of the said indemnity, except on furnishing good and sufficient security for the amount, over and above the sum which the said corporation shall have declared, by a writing filed in the prothonotary's office of the superior court, of the district of Montreal, and signed by the attorneys of the said corporation, or by the clerk of the said city, to be the just and proper indemnity which they consider they ought to pay." pending such recourse.

8. The trustees of the Mount-Royal cemetery, are hereby authorized to cede to the said corporation of the city of Montreal, or to exchange with them, such portion of the said cemetery as may be required for the said park, or for the streets or avenues leading thereto; and the said corporation is also authorized to cede to the said trustees or to exchange with them, such portion of the said park, as it may be deemed expedient to cede or to exchange in the interest of the said project. Mount-Royal cemetery land required for purposes of a park may be exchanged for other land or ceded.

9. All the area of land tinted *green*, specified on the said last mentioned plan, and required for the purposes of the said park, and the real estate colored in a *light neutral tint* on the said plan, shall form part of the said city of Montreal, and be deemed to be within the limits of the said city, for all municipal purposes; provided however, that the pieces of land which the said corporation may cede or exchange with the said trustees of the Mount-Royal cemetery, in virtue of the present act, shall, by the sole fact of such cession or exchange, be deemed to be outside the limits of the said city. Certain land added to limits of city of Montreal. Proviso.

10. The council of the said city is hereby authorized to pass a by-law to compel all proprietors, tenants or persons owning or using steam engines, steam boilers, factories, chemical works, or other workshops or establishments, Power to compel factories, &c., to consume their smoke.

Fine and
imprisonment.

within the limits of the said city, to provide the said establishments with the necessary apparatus to consume the smoke and gas escaping therefrom, so as to effectually remove and abate any nuisance arising from the working of such establishments; and to impose by such by-law a fine of one hundred dollars for the first offence, and in default of immediate payment of the said fine and costs by the offender, an imprisonment not exceeding two calendar months, unless the fine and costs shall have been paid before the expiration of said delay, and a further fine of fifty dollars per day for each and every day the said offender shall continue to carry on such establishment, in violation of such by-law.

Power to grant
or refuse per-
mission to have
lumber yards,
saw mills, &c.,
within the city
and to fix
places where
they may be
located.

11. It shall be lawful for the council of the said city, to compel, by by-law, passed by the two-thirds of the members of the said council all persons who intend to erect, use or employ, or who occupied or used before the passing of the present act, or who now occupy or use, within the limits of the said city, any yard or vacant lot for the storage of lumber, timber, firewood, laths or shingles, or to erect and use, or who occupied or used before the passing of this act, or who now occupy or use, any saw and planing mill, carpenter or joiner's shop, or other building or establishment wherein wood or other like combustible materials are kept and used, to obtain the previous sanction of the council of the said city, with power to the said council to grant or refuse such permission, as may be deemed advisable; and the said council shall have full power and authority to fix and determine the places within the limits of the city, where such wood-yards, mills, work-shops or other buildings, or establishments, wherein wood or other like combustible materials are kept, may be located and used, and to make such rules and regulations in reference thereto, as to the said council may seem necessary or expedient; and the penalty for any violation of the said by-law shall be the same as that imposed by the preceding section of the present act, provided always that nothing in the present clause shall have the effect to deprive any interested party of any right or interest which he may have at common law.

Penalty.

Power to pre-
vent or remove
unhealthy
establish-
ments.

12. It shall be lawful for the council of the said city of Montreal to make such by-laws as may be deemed necessary, to prohibit the erection, use or working, within the limits of the said city, of unhealthy, unwholesome, dangerous and obnoxious factories or establishments, and more especially, soap and candle factories, and factories of a like nature, wherein the rendering of tallow is carried on; and to prevent the working henceforth of such establishments at present existing, in the said city; and the penalty for

Penalty.

any violation of the said by-laws shall be the same as that imposed by the tenth section of this act, but before compelling any person to abandon and relinquish his ownership or the practice or working of any establishments of the said nature, the council of the said city shall be held to give a notice to be signed by the clerk of the said city to any person either personally, or to a reasonable person of his establishment, one year before thus being compelled to abandon such use or working thereof, and in the case where, after such notice has been given, the said factories and establishments are disposed of by sale or otherwise in favour of other parties, such disposal of the property shall not have the effect to invalidate such notice, which shall remain in its full force against any subsequent purchaser or holder.

13. When the council of the said city shall, by a resolution adopted by a vote of two-thirds of its members, determine to carry out an improvement and to contribute, from the city funds, one-third of the costs thereof, the right conferred, in and by the eleventh section of the twenty-ninth and thirtieth Victoria, chapter fifty-six, and the ninth section of the thirty-first Victoria, chapter thirty-seven upon the proprietors interested, shall be suspended, in so far as it relates to such improvement; provided, however, the said council, before adopting any such resolution, shall have previously given ten days' notice to that effect, in at least one English and one French newspaper published in the said city.

When an improvement has been resolved upon by a two-thirds vote, the right of proprietors under s. c. 11 of 29, 30 V. c. 56 and sec. 9 of 31 V. c. 37 shall be suspended. Proviso as to notice.

14. The commissioners, in carrying out the duties conferred upon them by the ninth section of the thirty-first Victoria, chapter thirty-seven, shall not be obliged to publish, in the notice required to be given in the newspapers, the names of the parties interested in any improvement; but it shall be sufficient to publish the limits or boundaries in which the real estate liable to assessment is included.

What notice shall be sufficient under sec. 9 of 31 V. c. 37.

15. The obligation imposed upon surveyors or other employees charged with the execution of the "*general plan of the city of Montreal*," by the second section of the twenty-seventh and twenty-eighth Victoria, chapter sixty, to place solid and durable boundary stones at each angle or corner of the new streets and public squares and places by them laid out and established, and to shew the said boundary stones upon the said plan, is hereby removed, and the said ninth section of the last mentioned act is repealed.

Sec. 2 of 27, 28 V. c. 60 amended, and sec. 9 of said act repealed.

16. It shall be lawful for the corporation of the said city, and the said corporation shall have full power and authority to increase, extend and prolong its aqueduct beyond the limits of the said city, and to establish and construct

Power to extend aqueduct

reservoirs beyond the said limits, and to acquire for that purpose, by amicable settlement or means of expropriation, as prescribed by the twenty-seventh and twenty-eighth Victoria, chapter sixty, all the land, pieces of ground and real estate, which may be required to make and construct the said works, any law to the contrary notwithstanding; and the recourse provided by the seventh clause of this act may be exercised by the corporation or by the party expropriated, in case the one or the other claims to be damaged by the amount of indemnity.

Power to borrow \$250,000 in addition to loan authorized by sec. 24 of 32 V. c. 70.

17. It shall be lawful for the corporation of the said city to borrow, over and above the sum already authorized by the twenty-fourth section of the thirty-second Victoria, chapter seventy, to be borrowed for improvements to the water-works, a further sum of two hundred and fifty thousand dollars for the same purpose; and all the provisions contained in the said twenty-fourth section, for the issuing of bonds or debentures, the payment of interest and security by special mortgage, as regards the principal and interest, shall apply to the loan authorized by the present section.

Power to borrow \$50,000 to make good contribution in aid of Chicago.

18. The corporation of the said city, is hereby authorized, to borrow a sum not to exceed fifty thousand dollars for a like sum which the council of the said city has, by resolution adopted at a regular meeting of the said council, held on the seventeenth day of the month of October last, contributed to aid the city of Chicago, in the State of Illinois, one of the United States of North America, after the conflagration which devastated that city; and for that purpose, the said corporation may issue shares of the City of Montreal consolidated fund, or bonds or debentures, under the signature of the mayor of the said city; and the seal of the said corporation, to the amount of the said sum of fifty thousand dollars, and the said bonds or debentures shall be payable twenty-five years from the date of their issue, with interest at a rate not to exceed seven per cent per annum, the said interest payable on the first day of May, and the first day of November, in each year; and the said bonds or debentures may be issued, from time to time, to such amounts as may be deemed necessary, and shall be guaranteed, in principal and interest, by special mortgage, on the general funds of the said corporation.

Debentures for that purpose.

Sec. 25 of 32 V. c. 70. to apply to loans under this act.

19. The twenty-fifth section of the act thirty-second Victoria, chapter seventy, shall apply *mutatis-mutandis* to the loans which the corporation of the said city, is authorized to make by sections six, seventeen and eighteen, of the present act.

20. In addition to the compulsory means at the disposal of the corporation of the said city, to recover the taxes, assessments or other city dues, the *saisie-arrêt* in the hands of third parties is hereby granted to the said corporation, and so soon as such taxes, assessments or other city dues shall become payable, the said corporation may proceed by a writ of *saisie-arrêt* to be issued from the circuit or superior court, according to the amount of such taxes, assessments or dues, under the ordinary process of law.

Right to obtain seizure by garnishment for taxes due.

21. The treasurer of the said city is hereby authorized to make, in any court of justice, in cases of *saisie-arrêt* in the hands of the said corporation, all declarations which the said corporation was heretofore held to make through an attorney specially authorized to that effect, and article 617 of the code of civil procedure of Lower Canada, is amended to that effect.

617 C. C. P. amended.

22. Whereas the treasurer of the said city publishes each year a precise and detailed statement of the business transacted during the year, for the information of the citizens, the special publication in the newspapers of a statement of the affairs of the water-works, required by the twenty-third section of the seventh Victoria, chapter forty-four, has become obsolete and of no avail, and the said section is modified so that it shall be no longer necessary to make such special announcement, and it shall not be necessary in future to keep separate books of entry and accounts for the said water-works, other than those kept for the ordinary transactions of the said city.

Sec. 23 of 7 V. c. 44 amended.

Statement of affairs of water-works need no longer be published in newspapers.

23. It shall be lawful for the council of the said city to make by-laws for the issuing of bonds or of stock or shares of the "City of Montreal Consolidated Fund" to an amount not to exceed fifty thousand dollars in any one year, for any public improvement, or any object other than the ordinary improvements and requirements already authorized and provided for, in the acts of incorporation of the said city and its amendments, and over and above the ordinary yearly expenditure of the corporation of the said city; provided that all such by-laws shall, before the final passing thereof, receive the sanction and approval of the municipal electors of the said city, in the manner prescribed in the second, third and fourth sections of the present act concerning grants to railways.

Power to make by-laws for the issuing of bonds not exceeding in one year \$50,000 for any improvement not already provided for.

Proviso, by-laws to be approved by electors.

24. All sections of any law incompatible with the provisions of the present act, shall be, and the same are hereby repealed, but in so far only as they are inconsistent with the said provisions, and the present section shall not have the effect of reviving any act or part of an act repealed by such law.

Repeal of inconsistent enactments.