

“Lower Canada Municipal Act of 1860,” or by any provisions which may be substituted therefor; and the said sections or provisions, and amendments relating thereto, to wit the act of the late province of Canada, section eleven, chapter nine, twenty-seventh Victoria, and the act of the province of Quebec, chapter twenty-two, twenty-third Victoria, shall apply to such sale of such lands or lots.

C A P . X L I .

An Act to amend the Act to Incorporate the Town of Levis.

[Assented to 24th December, 1870.]

WHEREAS the Corporation of the town of Levis has petitioned for certain modifications to the Act of incorporation of the said town, and whereas it is expedient to grant their prayer; Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

1. The fifth section of the act twenty-fourth Victoria, chapter seventy is hereby amended by striking out in the fifteenth line the word “fifteen,” and putting in its place the word “seven.” § 5 of 24 V., c. 70 amended.

2. There is a vacancy in the office of councillor in each of the following cases : Causes of vacancy amongst councillors.

1. When any person exempt from such office has been appointed councillor or if he becomes exempt or incapable while filling such office under section forty-two of the act twenty-fourth Victoria, chapter seventy ;

2. In the event of the death, annulment of election, refusal to accept the office or to act, of absence from the town during two months, of infirmity or illness, then the election for the purpose of replacing the person whose seat shall have become vacant, shall be held immediately in the manner prescribed for the general elections of councillors or of mayor, as the case may be. Sub-section eleven is repealed.

3. The forty-seventh section is repealed, and the following put in the place : § 47, of 23 V., c. 64 repealed.

“47. All taxes or assessments imposed by the town council shall become due and shall be paid at the office of the treasurer of the said town, on the days determined by the said town council, and within the next following thirty days; and in default of payment within such delays, the town council may recover the same by law-suits before any court in and for the district of Quebec; provided that a notice accompanied by a detailed account be left by the treasurer or some person employed by him, at the domi- When taxes shall be recoverable.

cile of the person in default, at least eight days before the institution of the suit."

§ 66, of said
act amended.
Procedure in
suits brought
under this act.

4. Section sixty-six is amended by adding the following:

1. Such suit shall be brought by the corporation of the town of Levis;

2. Any suit brought in virtue of the provisions of this act may be decided on the oath of one credible witness;

3. Suits brought before justices of the peace, in virtue of the present section shall be heard and decided by them, either according to the usual rules of procedure laid down respecting summary orders and convictions, unless the same are inconsistent with the provisions of the present section;

4. Such suits need not be begun by the affidavit or deposition on oath of the plaintiff or complainant, provided always that the purport of the complaint or demand is sufficiently set forth in the writ or in a declaration annexed thereto;

5. There must be an interval of at least two juridical days between the day of the service of the summons and that of the return;

6. On the day of the return of the summons and at every other stage of the proceedings the justice of the peace who has signed the summons may hear and decide the case alone;

7. He may nevertheless require the assistance of any other justice of the peace having jurisdiction within the town;

8. The returns of service made by a bailiff are given under his oath of office;

9. The justice of the peace or the clerk must take notes of the important parts of the evidence;

These notes signed by the sitting justice of the peace are part of the record;

10. The judgment of the court may be executed at the expiration of fifteen days from the date thereof;

Appeal.

11. An appeal lies, to the circuit court of the district of Quebec. From every judgment rendered by justices of the peace, in suits brought under the provisions of the act of incorporation or the by-laws of the town of Levis;

Procedure in
appeal.

12. The party who desires to appeal therefrom, must within fifteen juridical days after the judgment is rendered:

1. Give notice in writing of his intention to the justice or to one of the justices of the peace who rendered judgment or to their clerk;

2. Furnish before the clerk of the court, where the appeal is brought, good and sufficient security to effectively prosecute the said appeal, to satisfy the judgment and to pay the damages awarded, and costs incurred as well of the inferior court, as in appeal, in the event of the judgment being confirmed.

13. Sureties must, to the satisfaction of the clerk, justify their sufficiency, to the amount of at least one hundred dollars, over and above all debts, and under oath, if the clerk deems proper ;

One surety is sufficient ;

14. The appeal is brought before the court, by means of a writ of appeal signed by the clerk stating that the appellant complains that he is aggrieved by the judgment appealed from and ordering the justice or justices of the peace who have rendered judgment or their clerk to transmit the record of the said case ;

15. A copy of such writ of appeal certified by the clerk or by the appellant's attorney with a notice of the day when it will be presented must be served within the fifteen days next after the rendering of the judgment, on the respondent or his attorney, and on the justice of the peace, or on one of the justices of the peace, who rendered the same, or on their clerk ;

16. Between the day of such service and that fixed for presenting the petition in appeal to the court, the justices of the peace, or their clerk, must transmit the record, in the case to the clerk of the circuit court, with a certificate testifying that the documents transmitted are all the papers, documents and evidence relating to the case ;

17. The execution of the judgment from which an appeal has been instituted is suspended until the decision of the circuit court, if the copy of the writ of appeal has been served, within the prescribed delay, upon the justices of the peace, or upon their clerk, as well as upon the corporation of the town at their office, or upon their attorney ; in default thereof the judgment may be carried into effect ;

18. The writ of appeal must be returned to the circuit court on or before the first juridical day of the term following the expiration of the twenty days after the judgment was rendered ; in default thereof the appeal lapses ;

The appellant must produce on the day of the return of the writ of appeal together with a return of the bailiff, establishing the necessary services, a petition in which shall be summarily set forth the name of the case, the date of the judgment, the notice given, the security furnished, the reasons of appeal and conclusions tending to the setting aside of the judgment and to the rendering of that which should have been given ;

19. The appeal is heard and decided in summary manner, and no fresh witnesses can be heard ;

20. The judgment can be set aside only when a substantial injustice has been committed, and never by reason of any trifling variance or informality ;

If objections are raised which do not affect the merits of the cause, the court may amend the procedure, which is

thereupon executed as though it had been regular in the first instance ;

21. If the judgment is confirmed, the record in the cause together with a copy of the judgment deciding the cause and a certificate of the costs allowed on the appeal, must be transmitted without delay to the court below under the authority of which all the costs incurred are levied even those incurred in appeal ;

22. If the judgment is modified in whole or in part, the record and all the procedure remain in the archives of the circuit court and the judgment pronouncing on the appeal is carried into effect under the authority of such court ;

23. Every appellant who neglects to make the service required, by the subsection fifteen, hereinabove, or, who having made the same, neglects effectually to prosecute the appeal, is deemed to have abandoned such appeal, and the court, on application by the respondent, must declare forfeited all the rights and claim founded on the said appeal, with costs in favor of the respondent, and orders the transmission of the record to the court below ;

24. The securities are bound to satisfy the judgment, under penalty of seizure and execution, and in the same manner as the principal party, fifteen days after service of the judgment upon them ;

25. No appeal lies under the provisions of this act from any judgment rendered by any judge of the superior court or any district magistrate ;

26. No judgment or conviction susceptible of appeal under the provisions of this act, and no judgment or conviction pronounced by a district magistrate can be set aside by *certiorari* before the superior or circuit courts.

CAP. XLII.

An Act to incorporate the "Sherbrooke Water-Power Company."

[Assented to 24th December, 1870.]

Preamble.

WHEREAS the Honorable John Sewell Sanborn, John Henry Pope, Richard William Heneker, Francis D. Gilbert, Thomas S. Morey, Samuel J. Foss and Robert N. Hall, of the town of Sherbrooke, in the district of St. Francis, have, by their petition, prayed that they might be incorporated under the name of the "Sherbrooke Water Power Company," for the purpose of constructing and securing water-powers within the limits of the said town of Sherbrooke, and for erecting machine shops and factories in connection therewith, and letting and leasing the same,

