

## CAP. XXXII.

An act to provide for the appointment of a Fire Marshal for the cities of Montreal and Quebec and to define his powers and duties.

[Assented to, 24th February, 1868.]

**W**HEREAS the destruction of property by fire in the Preamble.  
cities of Montreal and Quebec frequently occurs under  
circumstances giving rise to strong suspicion that such fires  
were not accidental, and it is expedient to provide more effect-  
tual means of enquiry into the cause and origin of every fire  
occurring in the said cities, and of securing the prompt arrest  
of persons suspected of incendiarism ;

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

**1.** There shall be in each of the cities of Montreal and Fire marshals  
for Quebec and  
Montreal  
Quebec, an officer to be known and designated as the fire  
marshal of Montreal or Quebec as the case may be.

**2.** The lieutenant-governor in council shall appoint from To be named by  
lieut.-governor.  
time to time a fit and proper person to fill the office of fire  
marshal in each of the cities of Montreal and Quebec.

**3.** Whenever any fire has occurred in such cities, whereby His duties.  
any house or other building, or any property whatever therein,  
has been or is exposed to be wholly or in part consumed or  
injured by such fire, it shall be the duty of the fire marshal  
to institute an enquiry into the cause or origin of such fire,  
and whether it was kindled by design or was the result of  
negligence or accident, and in so far as the same is practicable,  
either in person or by some competent person employed by  
him for that purpose.

**4.** The fire marshal shall *ex officio* possess all the power, His powers.  
authority and jurisdiction of any judge of sessions, recorder  
or coroner for all purposes connected with the said enquiry,  
and shall have power to summon before him all persons  
whom he deems capable of giving information or evidence  
touching or concerning such fire.

**5.** Such persons shall be examined under oath before the He may exa-  
mine on oath.  
fire marshal, who is hereby authorized to administer such  
oath, and he shall reduce their examinations to writing.

**6.** If any person summoned to appear before the fire mar- May issue war-  
rant if party fails  
to attend on  
summons ;  
shal, neglects or refuses to appear at the time and place  
specified in the summons, then on proof of the service of such  
summons either personally or by leaving the same for him at  
his last or most usual place of abode, the fire marshal may  
issue a warrant under his hand and seal to bring and to have  
such person at a time and place to be therein mentioned.

**7.** If the fire marshal be satisfied by evidence upon oath or Or if it is proba-  
affirmation, that it is probable that such person will not at-

ble he will not attend.

tend to give evidence without being compelled so to do, then instead of issuing a summons he may issue his warrant in the first instance.

Imprisonment for refusing to be sworn or to answer.

8. If on the appearance of a person so summoned before the fire marshal either in obedience to such summons or being brought before him by virtue of a warrant, such person refuses to be examined upon oath or affirmation concerning the premises, or refuses to take such oath or affirmation, or having taken such oath or affirmation, refuses to answer the questions concerning the premises then put to him, without giving any just excuse for such refusal, the fire marshal may, by warrant under his hand and seal, commit the person so refusing to the common gaol of the district, there to remain and be imprisoned for any time not exceeding ten days, unless in the mean time he consents to be examined and to answer concerning the premises.

Arrest of persons suspected of having set fire.

9. The fire marshal shall have power to arrest or cause to be arrested any person or persons suspected of having set fire to any house, building or property, either before or pending the inquiry, and should the evidence adduced before him be such as to afford reasonable grounds for believing that the fire was not accidental, and was kindled by design, he shall issue his warrant for the arrest of the offender or persons suspected, if known and not already in custody, and proceed with the examination and the committal of the accused for trial in the manner provided by chapter one hundred and two of the consolidated statutes of Canada.

C. S. C. c. 102.

How summons and warrant may be executed out of the district.

10. Any summons or warrant to secure the attendance of witnesses, or warrant of arrest, may be served or executed within the district of Montreal, and in any other district in the province of Quebec, or county or place in the province of Ontario: provided always, that where a warrant is to be executed out of the district of Montreal, or in the province of Ontario, the same shall be backed by any justice of the peace within whose jurisdiction the same is to be executed, in the manner provided by chapter one hundred and two of the consolidated statutes of Canada.

Marshal to have certain powers of a judge of sessions or recorder.

11. The fire marshal shall have all the authority and jurisdiction of a judge of sessions or recorder for the arrest of all persons disturbing the peace at any such fire, or suspected of stealing any property whatever, at such fire, and to cause the offenders or persons so suspected to be brought before the judge of sessions, recorder or any justice of the peace to be dealt with according to law.

He may command services of police.

12. The fire marshal shall be entitled to command the services of one or more police officers or policemen of the said city during such enquiries, and for the service of any summons or execution of warrants issued by him.

He shall deposit his proceedings with the clerk of the peace.

13. It shall be the duty of the fire marshal to return all depositions, examinations and proceedings had before him to the clerk of the peace for the districts of Montreal and Quebec, within eight days after the close of each enquiry.

**14.** The fire marshal shall be entitled to receive for every original subpoena twenty cents, and for each copy five cents, and for every warrant, warrant of arrest, or warrant of commitment fifty cents, and for his services pending each enquiry, ten dollars for the first day, and five dollars per day for each subsequent day, and in the event of its being advisable to protract the enquiry, from the absence of witnesses or any other cause, beyond the seventh day of the enquiry, the total remuneration to be paid to him shall not exceed forty dollars.

His remuneration.

**15.** The cost of each enquiry shall be paid by the insurance company or companies, having insured the property or any one of the buildings, destroyed or injured by the fire, and in no case shall the corporation of the city be liable to pay the expense of any enquiry if the building be not insured, provided the contents of the same are, and if neither are insured, then the city treasurer shall be bound to pay the fire marshal the sum of ten dollars and no more, for the enquiry, in addition to the costs of the summonses and warrants issued, and the city treasurer shall be bound to pay the same on production of the certificate of the chief engineer of the fire department that such enquiry has been held within five days of the occurrence of such fire; and in like manner, the insurance company or companies shall be bound to pay *pro rata* according to the amount of each policy, the expense of said enquiries, on a like certificate and upon refusal to pay within three days of the delivery of such certificate, the amount may be recovered before the judge of sessions, recorder or a justice of the peace, summarily upon complaint of the fire marshal with costs.

Costs of investigations to be paid by insurance companies or by corporations, according to circumstances.

Costs how paid.

**16.** The provisions of chapter eighty-eight of the consolidated statutes of Canada, in so far as they relate to the cities of Montreal and Quebec and such portion of any acts of parliament as confers upon the councils of the said cities power to enact by-laws authorizing such enquiries, are hereby repealed.

C. S. C. c. 88, &c., repealed.

### C A P. XXXIII.

An act further to amend the act to Amend and Consolidate the provisions contained in the acts and ordinances relating to the Incorporation of and supply of Water to the City of Quebec, and also to amend the act amending the last mentioned act passed in the 29th and 30th years of the reign of her present majesty, chapter 57.

[Assented to, 24th February, 1868.]

**W**HEREAS the corporation of the city of Quebec have, by their petition, prayed that further amendments may be made to the act passed in the twenty-ninth year of her majesty's reign, intituled: An act to amend and consolidate