

C A P. XVIII.

AN ACT to provide for the lighting of the City of Montreal, by Gas.

[21st March, 1836.]

Preamble.

WHEREAS the Lighting of the Public Streets and Squares of the City of Montreal with Gas, as well as the interior of the buildings of the said City generally, would be of great public advantage, as affording a superior and more economical light than any other artificial light whatever ; and whereas the several persons hereinafter named are desirous at their own costs and charges to erect Gas Works within the said City or the Suburbs thereof, and to maintain the same, which nevertheless they cannot do without the aid and authority of the Provincial Parliament :—Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, " An Act " to repeal certain parts of an Act passed in the fourteenth year of His Ma- " jesty's Reign, intituled, "*An Act for making more effectual provision for the " Government of the Province of Quebec, in North America ;*" And to make further " provision for the Government of the said Province ;" and it is hereby enacted by the authority of the same, that J. Viger, John Torrance, M. J. Hayes, F. Ant. La- roque, Robert Armour, Benj. Holmes, John Frothingham, Joseph Shuter, Isaac Valentine, Guillaume Vallée, E. McTaby, Jas. Scott, James Jackson, Sam. Matheson, C. Carter, Samuel Hedge, Carter & Cowan, Wm. Macintosh, John Dor, Wm. Snaith, Ls. Haldimand, William Bingham, Lawrence Kidd, James Logan, R. D. Handyside, C. S. Rodier, C. H. Castle, William Cormack, James Dougall, C. Tait, Thomas B. Anderson, Wm. Forsyth, S. Gerard, Jno. B. Forsyth, M. McCulloch, D. Maclean, F. Perry, John Speirs, James Holmes, H. L. Routh, James Dick, Wm. Js. Knox, Samuel Slicer, John L. Badgley, Robert Armour, junr. Wm. Robertson, A. McDonald, Charles Mittleberger, Adam Handyside, David Handyside, E. D. David, D. Carmichael, James Nairne, Robert Fould, R. Hart, A. W. Hart, C. & A. Fittz, Walter Burns, William Dow, J. McLean, Nicolaus P. M. Kurczyn, J. M. Tobin, Joseph Donegani, John Mathewson, Peter Dunn, J. Swords, J. R. Bronsdon, J. Redpath, Robt. Armstrong, together with such other persons as shall under the provisions of this Act become subscribers to and proprietors of any share or shares in the Gas Works hereby authorized to be made or crected, and their respective heirs, executors, curators, administrators or legal representatives, being proprietors of one or more shares in the Gas Works aforesaid, shall be and are hereby **erected** into a Company, for making, erecting, completing and maintaining the said intended

Gas Light
Company of
Montreal creat-
ed a Body Po-
litic and Corpo-
rate and veseld
with certain
powers by this
Act.

intended Gas Works according to the rules, orders and directions hereinafter expressed ; and shall for that purpose become a Body Politic and Corporate, by the name of " The Montreal Gas Light Company," and by that name shall have perpetual succession, and a Common Seal, and by that name shall and may sue and be sued, plead and be pleaded, and shall and may also have power and authority to purchase lands, tenements and hereditaments, for them and their successors and assigns, for the use of the said Gas Works, without His Majesty's letters of mortmain, (saving nevertheless to the Seigneur or Seigneurs within whose censive the lands, tenements, and hereditaments so purchased may be situated, his or their several and respective right to be indemnified, and all other Seigniorial rights whatever,) and also to sell any of the said lands, tenements, hereditaments purchased for the purposes aforesaid ; and any person or persons, Bodies Politic and Corporate, or Communities may give, grant, sell, bargain or convey to the said Company any lands, tenements, or hereditaments for the purposes aforesaid, and the same may re-purchase from the said Company without letters of mortmain ; and the said Company and their successors and assigns shall be and they are hereby empowered and authorized from and after the passing of this Act, by themselves or their deputies, agents, officers, workmen and servants, to make and erect Gas Works, and such appurtenances as may be necessary to their effective operation, to be called " The Montreal Gas Works ;" such Gas Works and appurtenances being so constructed as not to endanger the public health or safety, and for the purposes aforesaid, the said Company of Proprietors, their deputies, servants, agents and workmen, are hereby authorized and empowered, under the direction of the Road Officers of the said City, to break up the pavements of the said City of Montreal and the Suburbs thereof, and to dig and cut trenches for laying down pipes for distributing the Gas throughout the said City and the Suburbs thereof, and to make drains when necessary for any purpose in connection with the said Gas Works ; but such drains shall in no case be constructed with or run into the common sewers, and shall be carried into the River Saint Lawrence, and be made water tight so far out into the said River as to empty themselves into the swift water thereof, and shall not be carried into the said River at any point above Monarque Street ; and also have power to break up and uplift the said Streets for the purpose of taking up and relaying of pipes, and making all and every necessary repairs to the same ; and where there are buildings within the said City or Suburbs, the different parts whereof shall belong to different proprietors, and be in the possession of such proprietors or other tenants or lessees, the said Company are authorized and empowered to carry pipes to any part of the building so situated, passing over the property of one or more proprietors to convey the Gas to that of another, the said pipes being carried up and attached to the outside of the building. And the said Company of Proprietors, their deputies, servants, agents and workmen are also empowered and authorized to break up

up and uplift all passages which are a common servitude to neighbouring proprietors, and to dig and cut trenches therein for the purpose of laying down pipes, taking up and repairing of pipes and doing all necessary and requisite repairs to the same; the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction to the owners or proprietors of buildings or other property, or to the public, for all damages to be by them sustained in or by the execution of all or any of the powers granted by this Act, as hereinafter mentioned, and this Act shall be sufficient to indemnify the said Company or their servants, agents or workmen, and all other persons whomsoever, for what they or any of them shall do by virtue of the powers hereby granted, subject nevertheless to such provisions as are hereinafter mentioned.

Company of Proprietors when they break up and uplift the streets of the City, and that the trenches to be laid down in any line of streets, not to be laid down in the centre thereof, but the trenches to be opened near the curb stone. &c.

Proviso.

II. Provided always, and be it further enacted by the authority aforesaid, that when the said Company of Proprietors of the said Gas Works, or their deputies, agents, servants or workmen, shall by virtue of the powers in them hereby vested, break up and uplift the Streets of the said City of Montreal, and that main pipes are to be laid down in any line of Streets, they shall not be laid down in the centre thereof, more particularly in the main or principal Streets, but the trenches shall be opened as near the curb or foot path as possible, so as to create as little interruption as may be; and that in all cases of opening trenches for laying main pipes, and for the repairs of the same, the said Company shall be bound under the penalty of not less than two pounds, currency, nor more than five pounds, currency, to have the trenches filled up on the third day at farthest, and the paving and Macadamization to be done immediately thereafter, and placed in the same state as it was in before the ground was broken, and the rubbish to be taken away;— the whole to be completed within six days, under a penalty of twenty shillings, currency, for each day, after legal or written notice shall have been given by the party whom it may concern; and that whenever any trenches shall be opened for the purpose of laying down branch or service pipes, the trench or trenches shall be filled up on the day on which they are opened, and the Streets and pavements restored to the state in which they were before they were broken up on the next day at farthest, under a penalty of twenty shillings, currency, for each day after notice shall have been served as aforesaid: Provided always, that while the trenches shall remain open the said Company shall be bound to put guards or fences with lamps at proper distances according to the directions to be given by the Road Officers, and to provide Watchmen during the night at their expense, to trim the said lamps and protect passengers from danger, the whole under a penalty of five pounds, currency, over and above such damages as may be recovered by civil action, brought by any party who may have sustained injury, against the said Company for any act of neglect with regard to the matters aforesaid, or any defects in the works or apparatus aforesaid.

III.

Gas Works, &c.
subject to visit
and inspection
of the municipal
authorities.

III. And be it further enacted by the authority aforesaid, that the said Gas Works, apparatus and appurtenances, shall, at all times be subject to the visit and inspection of the municipal authorities of the said City of Montreal, or of their deputies, and the said Company, their officers and servants, shall obey all just and reasonable orders and directions which they shall receive from the said authorities for the public benefit, under a penalty of not more than five pounds, nor less than fifty shillings, currency.

Applications to
the Courts of
Justice for in-
demnity for any
damage sus-
tained by rea-
son of the pow-
ers given by
this Act, must
be brought
within six
months after the
supposed da-
mage.

IV. And be it further enacted by the authority aforesaid, that applications to the Courts of Justice for indemnity for any damage or injury sustained by reason of the powers and authorities given by this Act, and every action or prosecution brought or commenced against any person or persons for any thing done or to be done in pursuance of this Act, or in pursuance of the orders and directions herein above made and established, shall be brought within six calendar months next after the time of such supposed damage sustained, or from the time when the act complained of was committed, or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards. And the Defendant or Defendants in such action or suit shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to have been so done, or if the action shall have been commenced after the expiration of the delay aforesaid, or if the Plaintiff or Plaintiffs shall be non suite or discontinue his, her, or their action or suit after the Defendant or Defendants shall have appeared, or if judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have full costs, and shall have such remedy for the same as any Defendant or Defendants hath or have for costs of suit in other cases by Law.

Not prevent the
Company or its
officers, from
being prosecut-
ed for public
or private nei-
sance on ac-
count of the
Gas Works.

V. And be it further enacted by the authority aforesaid, that nothing in this Act contained, shall extend to prevent the said Company, or their officers, servants, or workmen, from being prosecuted for public or private nuisance on account of the said Gas Works, or the appurtenances thereof, whether such nuisance shall arise from the mode of lighting or from neglect or want of skill on the part of the persons employed by the said Company or otherwise.

Persons ag-
grieved may
appeal.

VI. Provided always, and be it further enacted by the authority aforesaid, that if any person or persons shall think himself, herself, or themselves aggrieved by any thing done by any Justice of the Peace in pursuance of this Act, every such person or persons may, within four calendar months after the doing thereof, appeal to the Justices

Justices of the Peace at the General Quarter Sessions to be holden in and for the District of Montreal.

Penalty on any person putting out of order any portion of the apparatus of the Gas Works.

VII. And be it further enacted by the authority aforesaid, that if any person or persons shall wilfully and maliciously break or put out of order any portion of the apparatus of the Gas Works hereby authorized to be erected, or any work or works, appurtenances or dependencies thereof, or shall wilfully do any other injury or damage, for the purpose of obstructing, hindering or embarrassing the construction, completion, maintaining or repairing of the said Gas Works, such person or persons shall be adjudged to be guilty of felony, and the Court before whom such person shall be tried and convicted, shall have power and authority to cause such person or persons to be punished, in the same manner in which by the laws of this Province felons may be punished; or may in mitigation of such punishment, pronounce such sentence as may by law be pronounced in cases of petty larceny, as to such Court shall seem meet.

Company of Proprietors may raise such sums of money as may be necessary, not to exceed £20,000 in shares of £20 each.

VIII. And be it further enacted by the authority aforesaid, that the said Company of Proprietors and their successors, may raise and contribute among themselves for the purposes of this Act, such sum as shall not in the whole exceed the sum of twenty thousand pounds, currency, in one thousand shares of twenty pounds each, and the money so raised is hereby appropriated, in the first place to pay and satisfy all fees, expenses and disbursements incurred and made in and about the obtaining and passing of this Act, and other expenses thereunto relating, and the remainder of the said money to the purpose of constructing, completing, and maintaining the said Gas Works, and to the purposes of this Act, and to no other use, object or purposes whatsoever.

Shares to be deemed personal estate.

IX. And be it further enacted by the authority aforesaid, that the shares aforesaid shall be deemed personal estates, and shall be transferred as such, and that the said one thousand shares shall be and are hereby vested in the several subscribers, and their several and respective heirs, executors, curators, administrators and assigns to their and every of their proper use and behoof, proportionally to the sum they and each of them shall severally subscribe and pay thereunto, and all and every the bodies politic, corporate or collegiate, or communities, and all and every person or persons, their several and respective successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of twenty pounds, or such sum or sums as shall be demanded in lieu thereof, towards carrying on and completing the said intended Gas Works, shall be entitled to and receive after the said Gas Works shall be completed, the entire and net distribution of one thousandth part of the sum and sums of money to be raised, recovered and received by the authority

thority of this Act, and so in proportion for any greater number of shares ; and every body politic, corporate or collegiate, or community, person or persons having such property, and one-thousandth part or share in the said undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional sum of money towards carrying on the said undertaking, in manner by this Act directed and appointed.

No one instalment to exceed a certain sum.

Proviso.

X. And be it further enacted by the authority aforesaid, that no one instalment to be paid on account of the said shares shall exceed the sum of two pounds currency, on each share, and notice thereof shall be given by advertisement in the newspapers, during at least three weeks before such instalment shall be called for : Provided always, that no instalment shall be called for except after the lapse of one calendar month from the time when the then last instalment was called for ; and if any person or persons shall neglect or refuse to pay his or their share of such money to be so paid in, as aforesaid, at the time and place fixed and appointed at a public meeting, or by the Committee of Directors of the said Company, such person or persons so neglecting or refusing shall thereby incur a forfeiture of not more than ten, nor less than five per cent, on the amount of his or their respective share or shares; and if such person or persons shall refuse or neglect to pay their portion of the instalments demanded, for the space of two calendar months after the time fixed for the payment thereof, then such person or persons shall forfeit his or their respective share or shares in the said undertaking, and all the profits and advantages thereof ; and all such shares upon which former instalments shall have been paid, shall be sold at public auction, and the proceeds of the sale, after deducton costs, shall be reimbursed to such defaulter.

If the sum of £20,000 is not sufficient, a further sum may be raised among the Company of Proprietors.

XI. And be it further enacted by the authority aforesaid, that in case the said sum of twenty thousand pounds hereinbefore authorized to be raised shall be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the said Company of Proprietors to raise and contribute amongst themselves, in the manner and form aforesaid, and in such shares and proportions as to them shall seem meet, or by the admission of new subscribers, a further or other sum of money for completing and perfecting the said intended Gas Works, and other works and conveniences incidental or relative thereto, not to exceed five thousand pounds, currency, aforesaid, and every subscriber towards raising such further or other sum of money shall be a Proprietor in the said undertaking, and have a like vote in respect of every share in this additional sum to be raised, and shall be liable to such obligations, and stand interested in all the profits and powers of the said undertaking in proportion to the sum he, she or they shall or may subscribe thereto, as generally and extensively as if such other or further sum had been originally raised, and a part of

of the first sum of twenty thousand pounds, any thing herein contained to the contrary notwithstanding.

Persons who have subscribed, are required to pay the sums due to the persons and at such times as they may be demanded by the Company of Proprietors.

XII. And whereas several persons have subscribed or may hereafter subscribe to advance money towards carrying the purposes of this Act into execution: Be it therefore further enacted by the authority aforesaid, that the several persons who have subscribed, or who shall hereafter subscribe to advance any money, for and towards making and maintaining the said Gas Works and other works connected therewith, shall, and they are hereby required to pay the sum or sums of money by them respectively subscribed, or such parts or portions thereof, as shall from time to time be called for by the said Company of Proprietors under and by virtue of the powers and directions of this Act, to such person or persons, and at such times and places as shall be directed by the said Company of Proprietors, or the Committee in the manner before mentioned, and in case any person or persons shall neglect or refuse to pay the same at the time and in manner required for that purpose, it shall be lawful for the said Company of Proprietors to sue for and recover the same in any Court of Law having competent jurisdiction.

No advantage to be taken for the forfeiture of any share, unless declared at a General Meeting of the Company of Proprietors, after such forfeiture shall have been incurred.

XIII. Provided always, and be it further enacted by the authority aforesaid, that no advantage shall be taken for the forfeiture of any share or shares of the said undertaking, unless the same shall be declared to be forfeited at some General Meeting of the said Company of Proprietors, assembled at any time after such forfeiture shall have been incurred, and every such forfeiture shall be an indemnification to, and for every Proprietor so forfeiting against all action or actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such Proprietor and the other Proprietors, with regard to carrying on the said Gas Works or undertaking.

When the first General Meeting of the Proprietors is to be held.

Proviso.

XIV. And be it further enacted by the authority aforesaid, that the first General Meeting of the Proprietors for putting this Act into execution, shall be held at Rascoe's Hotel, in the City of Montreal, within one month after three hundred shares in the said undertaking shall have been subscribed, provided that public notice thereof be given during two consecutive weeks, in two papers published in the city of Montreal, of which one shall be in the English and the other in the French language, and the second General Meeting shall be held at such time and place as the said Proprietors or a majority of them present at their said first meeting, shall appoint; and the said General Meeting shall be thereafter held twice in every year, and at such said first General Meeting the Proprietors assembled, together with such proxies as shall be present, shall choose nine persons, being each a Proprietor of ten or

Special Meetings may be held.

Proviso.

or more shares in the said undertaking, of whom any five or more shall be a Committee for managing the affairs of the said Company of Proprietors, in such manner as is hereinafter directed, and as shall, from time to time, be ordered by such General Meetings; but if at any time it shall appear to any eleven or more of such Proprietors, holding together one hundred and fifty shares at least, that for more effectually putting this Act into execution, a special meeting of Proprietors is necessary to be held, it shall be lawful for such eleven or more of them to cause fifteen days notice at least to be given thereof in the papers aforesaid, or in such other manner as the Proprietors, or their successors, shall, at any General Meeting direct or appoint, specifying in such notice the time and place, and the reason and intention of such Special Meetings respectively; and the Proprietors are hereby authorized to meet pursuant to such notices, and proceed to the execution of the powers by this Act given them, with respect to the matter so specified only; and all such acts of the Proprietors, or the majority of them, at such Special Meetings assembled, such majority not having either as principals or proxies, less than two hundred and fifty shares, shall be as valid to all intents and purposes as if the same were done at General Meetings: Provided always, and it shall and may be lawful for the said Company of Proprietors, at such Special Meetings, in like manner as at General Meetings, in case of the death, absence, resignation, or removal of any person named of the Committee, to manage the affairs of the said Company of Proprietors in manner aforesaid, to choose and appoint another or others in the room or stead of those of such Committee who may die or be absent, resign or be removed as aforesaid, any thing in this Act to the contrary notwithstanding.

Number of votes that each Proprietor shall be entitled to.

XV. And be it further enacted by the authority aforesaid, that the number of votes to which each Proprietor of shares in the said undertaking, shall be entitled on every occasion, wherein conformity to the provisions of this Act, the votes of the Members of the said Company of Proprietors are to be given, shall be in the proportion following, that is to say:—

For one share, and not more than two, one vote.

For every two shares above two, and not exceeding ten, one vote; making five votes for ten shares.

For every four shares above ten, and not exceeding thirty, one vote; making ten votes for thirty shares.

For every six shares above thirty, and not exceeding sixty, one vote; making fifteen votes for sixty shares.

For every eight shares above sixty, and not exceeding one hundred, one vote; making twenty votes for one hundred shares, and for every ten shares above one hundred shares, and not exceeding one hundred and fifty, one vote; making twenty-five

five

five votes for one hundred and fifty shares; and whatever question, election of proper Officers, or matters or things to be proposed, discussed or considered at any public meeting of the Proprietors, to be held by virtue of this Act, shall be determined by the majority of votes so given as aforesaid.

No Member of a Committee, but a Proprietor of many shares to have more than one vote in the said Committee.

Proviso.

XVI. Provided always, and be it further enacted by the authority aforesaid, that no one Member of the said Committee, though he may be a Proprietor of many shares, shall have more than one vote in the said Committee, and the Chairman who shall be chosen by and out of the said Committee, shall not vote except in case of an equal division among the other Members of the said Committee. And provided also, that such Committee shall, from time to time, be subject to the examination and control of the said General and other Meetings of the said Proprietors as aforesaid, and shall pay due obedience to all such orders and directions in and about the premises, as they shall, from time to time, receive from the said Proprietors, at such General or other Meetings; such orders and directions not being contrary to any express directions or provisions in this Act contained.

No Proprietor, unless duly qualified, can be elected President, Treasurer, or Clerk, or one of the Committee.

XVII. Provided always, and be it further enacted by the authority aforesaid, that no Proprietor who shall not be a natural born subject of His Majesty, or a subject of His Majesty naturalized by Act of the British Parliament, or by Act of the Parliament of this Province, shall be elected President, Treasurer, or Clerk, or one of the Committee of the said Corporation.

A Company of Proprietors, &c., may take the money agreed to be paid to them by any person for the use of the said Gas Works, and in case of neglect or refusal to pay the sum agreed upon the Company may sue for the same.

XVIII. And be it further enacted by the authority aforesaid, that it shall and may be lawful for the said Company of Proprietors, their heirs or legal representatives, to ask, demand, take and receive to and for their own proper use and benefit, such sum or sums of money as shall be agreed to be paid to them by any person or persons, or any body of persons or company whatsoever, for the use of the said Gas-Works; and in case of neglect or refusal to pay such sums at the time agreed upon, the said Company of Proprietors may bring and maintain any action for the recovery thereof, in any Court of competent jurisdiction.

Penalties may be sued for before any two Justices of the Peace residing in Montreal.

XIX. And be it further enacted by the authority aforesaid, that all fines and penalties imposed by this Act, may be sued for before any two or more Justices of the Peace residing in the City of Montreal, who shall decide such suit in a summary manner, on the evidence of one or more credible witnesses, or on the default or confession of the offender; and one moiety of all such penalties shall go to the King, and the other moiety to the party suing for the same, and such penalties may be levied by the seizure and sale of the goods and chattels of the defendant, by warrant under the hands and seals of such Justices of the Peace, with costs; and if any surplus

surplus shall remain out of the proceeds of such sale after the penalty and costs shall be paid, such surplus shall be returned to the defendant; and if such goods and chattels of the defendant shall not be found of sufficient value to pay the penalty and costs as aforesaid, such defendant shall be committed to the common gaol of the District of Montreal, for such term not exceeding one month as such Justices of the Peace may appoint, or until such penalty and costs shall have been so paid, if they are paid before the expiration of such term.

Public Act.

XX. And be it further enacted by the authority aforesaid, that it shall be deemed and taken to be a public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace and others, without being specially pleaded.

Continuance
of this Act.

Proviso.

XXI. And be it further enacted by the authority aforesaid, that this Act shall remain in force until the first day of May, one thousand eight hundred and sixty-one, and no longer. Provided always, that the Gas-Works herein before mentioned shall be in full operation within two years from the passing of this Act; in default whereof the privileges and advantages granted by this Act to the said Company, shall cease and be of no effect.

C A P. XIX.

An Act to regulate the Fees of persons employed by Justices of the Peace in the Country Parishes, as Clerks or Bailiffs, in certain cases.

[21st March, 1836.]

Preamble.

WHEREAS the want of a Tariff for the persons performing the duty of Clerks, and for the Bailiffs and Constables employed by the Justices of the Peace in the Country Parishes, gives rise to many abuses and to acts of extortion, and it is expedient to provide a remedy therefor; Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, "*An Act for making more effectual provision for the Government of the Province of Quebec, in North America,*" And to make further provision for the Government of the said Province; and