

*The Provincial Statutes of Lower-Canada, Being the sixth session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, fifth day of November, 1840, and ending the ninth day of February, 1841.* Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1841.

4 Victoria – Chapter 32 (Session 6)

### **An Ordinance to amend the Ordinance to Incorporate the City and Town of Montreal.**

Whereas it is expedient to repeal in part, and to amend the Ordinance of the Legislature of this Province, passed in the fourth year of Her Majesty's Reign and intituled, "An Ordinance to incorporate the City and Town of Montreal," and to vest certain further powers in the Corporation thereby constituted, and to remove certain doubts which have arisen as to the true intent and meaning of certain clauses of the said Ordinance:—Be it therefore Ordained and Enacted by His Excellency the Governor of this Province of Lower-Canada, by and with the advice and consent of the Special Council for the affairs of the said Province constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower-Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the Session held in the second and third years of the Reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament, for making temporary provision for the Government of Lower-Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the third and fourth years of the Reign of Her present Majesty, and intituled, "An Act to Re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada;" and it is hereby Declared, Ordained and Enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that the Proclamation mentioned and referred to in the second section of the said Ordinance, is and shall be understood to be a certain Proclamation of his Excellency Alured Clarke, Esquire, Lieutenant-Governor of the Province of Lower-Canada, issued under the Great Seal of the said Province, and bearing date the seventh day of May in the year of Our Lord one thousand seven hundred and ninety two; any error in the citation of the said Proclamation in the section aforesaid, to the contrary notwithstanding.

II. And be it further Ordained and enacted, that the fifteenth section of the said Ordinance shall be and is hereby repealed.

III. And be it further Ordained and Enacted, that on the first day of December, in the year of Our Lord one thousand eight hundred and forty two, all the members of the Council of the said City appointed under the authority of the said Ordinance shall go out of office; and on the first day of December in each succeeding year, one of the members of the Council for each ward shall go out of office; and on the first day of December in the year of Our Lord

one thousand eight hundred and forty three, that member of the said Council for each ward shall go out of office who shall have been elected by the smallest number of votes, in such ward in the year of Our Lord one thousand eight hundred and forty two; and in the year one thousand eight hundred and forty four, that member of the said Council for each ward shall go out of office who shall have been elected by the next smallest number of votes, in the said year of our Lord one thousand eight hundred and forty two; and thenceforward, those members of the Council for each ward, respectively, shall go out of office who shall have been members thereof, for the longest time without re-election:—Provided always, that if any two or more members of the Council for any ward, shall have been elected by an equal number of votes in the said year one thousand eight hundred and forty-two, or if no poll shall have been taken in any ward in the said year, then it shall be determined by a majority of the Council, which of the members thereof for such ward shall go out of office in the year one thousand eight hundred and forty-three, and in the year one thousand eight hundred and forty-four, respectively; Provided also, that if on the first day of December in the year one one thousand eight hundred and forty-three, or in the year one thousand eight hundred and forty-four, respectively, there shall be a vacancy or vacancies in the office of any member or members of the Council for any ward, who would not under the provisions of this section have gone out of office on that day, then a member or members of the Council shall be elected for the ward to fill such vacancy, as well as in the place of the member who shall then go out of office under the provisions of this section; and provided further, that any member going out of office may be re-elected if then qualified according to the provisions of the said Ordinance.

IV. And be it further Ordained and Enacted, that the twenty-third and twenty-fourth sections of the said Ordinance, shall be and are hereby repealed.

V. And be it further Ordained and Enacted, that at the first quarterly or special meeting of the Council of said City, after the election in the said year one thousand eight hundred and forty-two, and in each subsequent year, the said Council shall elect from among the members of the said Council six persons, or so many as may then be requisite with those Aldermen remaining in office to make the number of six, (if so many members there be duly qualified, and if there be not then such less number as may be so qualified) to be Aldermen of the said City, until the time when they shall respectively cease to be members of the said Council under the provisions of the third section of this Ordinance, and no longer; Provided always, that any Alderman going out of office in any year, may, if re-elected as a member of the Council, at the next or any subsequent election of Councillors, be re-elected as an Alderman.

VI. And be it further Ordained and Enacted, that the twenty-sixth section of the said Ordinance shall be, and is hereby repealed.

VII. And be it further Ordained and Enacted, that if any extraordinary vacancy shall occur in the office of member of the Council of the said City, for any ward thereof, after the first

election of members of the said Council, the inhabitant house holders and persons qualified to vote in the ward for which such vacancy shall have occurred, shall, on a day to be appointed by the Mayor after such vacancy shall have occurred, elect from the persons qualified to be members of the Council, a person duly qualified to fill such vacancy; and such election shall be held, and the voting and other proceedings shall be conducted in the same manner, and subject to the same provisions as are by the said Ordinance, and by this Ordinance provided with respect to other elections of members of the said Council; and every person so elected, shall hold such office until the period at which the person in the room of whom he shall have been elected, would in the ordinary course, have gone out of office, and shall then go out of office, but may be immediately re-elected if then duly qualified: Provided always, that no election shall take place to supply any such extraordinary vacancy, after the first day of December in any year.

VIII. And be it further Ordained and Enacted, that the twenty-seventh section of the said Ordinance shall be, and is hereby repealed.

IX. And be it further Ordained and Enacted, that at the first quarterly or special meeting of the said Council, after the elections of Members thereof in the year of our Lord one thousand eight hundred and forty-two, and in each succeeding year, the said Council shall elect out of the Members thereof, a fit person to be Mayor of the said City, who shall continue in office until the day on which the election of members of the Council shall be held in the month of December then next ensuing; and in case a vacancy shall occur in the office of Mayor, by treason of any person who shall have been elected to that office not accepting the same, or by reason of his living or ceasing to hold the said office, the said Council shall, at the first general or special meeting of the said Council after such vacancy, elect out of the members of the Council, another fit person to be Mayor for the remainder of the period for which the Mayor whose place is to be supplied, was to serve.

X. And whereas it is expedient that auditors of the said City should be appointed, before the time mentioned in the twenty-fifth section of the said Ordinance, be it therefore further Ordained and Enacted, that the Council of the said City, may at any quarterly or special meeting to be held before the first day of December, in the present year of our Lord one thousand eight hundred and forty-one, elect from among the persons qualified to be members of the Council, two persons who shall be and be called auditors of the City of Montreal, until the first quarterly meeting, after the day last mentioned; and may, at the last mentioned quarterly meeting elect two persons qualified as aforesaid, to be auditors for the said City, until the first day of December, one thousand eight hundred and forty two: Provided always, that in every such election of auditors, no member of the Council shall vote for more than one person to be such auditor as aforesaid; and provided also, that no member of the said Council, nor the Clerk of the said City, shall be elected an auditor as aforesaid: And provided also, that the election of auditors in each year under the provisions of the said twenty-fifth section of the said Ordinance, shall be made at the first quarterly or special meeting next after the first day of December, and not on the ninth day of December,

(unless that day be one of the days on which such quarterly or special meeting shall be held; any thing in the said section to the contrary notwithstanding: And provided further, that any vacancy in the office of Auditor, whether occurring before or after the first day of December in the year of our Lord, one thousand eight hundred and forty two, may be filled up by the said Council by an election to be had, in the manner and under the provisions aforesaid, at any general or special meeting; and the person so elected shall hold his office, until the time when the person whose place he shall have been elected to supply, would have gone out of office.

XI. And whereas doubts have arisen as to the true intent and meaning of that enactment of the thirty-sixth section of the said Ordinance, whereby a casting vote is given to the Mayor or to the Chairman presiding at meetings of the Council in certain cases, be it therefore declared and further Ordained and Enacted, that the casting vote so given to the Mayor, or person presiding in the cases aforesaid, shall be a double vote; that is to say, he may first vote as a member of the said Council, and if the votes be then equally divided, he may give a second or casting vote, and so determine the question then before the Council.

XII. And be it declared and further Ordained and Enacted, that the words "one third part of the entire number of Councillors composing the said Council," in the said thirty sixth section of the said Ordinance do, and shall mean, and shall be construed to mean, one third part of the whole number of the members of the said Council; and generally, that the word "Councillor" and the word "Councillors," whenever they occur in the said Ordinance do, and shall mean any member or the members of the said Council, unless by the context it shall appear clearly, that the said words respectively are intended to apply exclusively to a member or members of the said Council, who is not or are not, the Mayor or an Alderman or Aldermen of the said City.

XIII. And be it further Ordained and Enacted, that the notice required by the thirty eighth section of the said Ordinance, to be given by the Mayor with regard to any special meeting to be called by him under the provisions of the said section, shall specify the business for which the proposed meeting is to be held; any thing in the said section to the contrary notwithstanding.

XIV. And whereas doubts have arisen, as to the true intent and meaning of certain parts of the forty first section of the said Ordinance, be it therefore declared and further Ordained and Enacted, that the said Council have, and shall have power and authority, in the manner and for the purposes in the said section mentioned, to make rates and assessments to the amount of one shilling in the pound, in any one year, on the assessed yearly value of the property liable to such assessment, over and above the amount of the assessment of six pence in the pound which might have been, before the passing of the said Ordinance, levied on such property by the Justices of the Peace for the district of Montreal, by virtue of the powers and authorities transferred to the said Council by the forty third-section of the said Ordinance; that is to say: the rates and assessments which the said Council are authorized to assess and levy on real or personal property, or both, within the said City, under the

authority of the said forty first section, and of the said forty third section of the said Ordinance, and subject to the provisions thereof, may in the whole amount to, but shall not exceed one shilling and sixpence in the pound on the assessed yearly value of the property liable to such rates and assessments.

XV. And be it further Ordained and Enacted, that in addition to the duties which the said Council are by the forty-first section of the said Ordinance, authorised to impose on persons exercising certain trades and callings within the said City, it shall be lawful for the said Council, in like manner to impose a duty or duties on proprietors, owners or keepers of Theatres, Circuses, or public exhibitions or shows of any kind, or of horses or carriages of any kind, kept for pleasure or for hiring out, or of billiard tables, or dogs, within the said City, and on wholesale and retail dealers in goods, wares or merchandize, of any kind, keepers of eating houses, coffee houses or ordinaries, Auctioneers, Grocers, Bakers, Butchers, Hucksters, Pawnbrokers, Livery-stable-keepers or Carters, within the said City, and on all persons acting as ferrymen to the said City, or plying for hire, for the conveyance of persons by water to the said City, from any place not more than nine miles distant from the same, and to impose, by any by-law or by-laws imposing any such duty or duties, such fines not exceeding five pounds, and such imprisonment not exceeding thirty days for any one offence, on any person exercising any of the callings or trades aforesaid, without having paid the duty imposed on persons exercising the same, as they may think proper for enforcing the payment of such duties.

XVI. And be it further Ordained and Enacted, that the said Council shall have power and authority, by any by-law to be passed for that purpose, to increase the amount of the commutation money payable by each person liable to statute labour on the highways within the said City, to any sum not exceeding five shillings currency for each person so liable; and to enact that each and every person so liable, shall pay the amount of such commutation money so fixed, and shall not be allowed to offer his personal labour on the said highways instead thereof, and to exempt from the payment of such commutation money, any class of persons to whom they shall deem it right to grant such exemption on account of the limited means of such persons to pay the same.

XVII. And be it further Ordained and Enacted, that all the powers and authority heretofore vested in the Justices of the Peace for the District of Montreal, to make any Tariff of rates of ferryage to the City of Montreal, from any place within nine miles of the said City, or to make any regulations or by-laws for the government of persons plying as ferrymen to the said City, from places within the said limits, shall be and are hereby transferred to and vested in the said Council, who shall have full power and authority to make such rules, regulations and by laws concerning such rates of ferryage, and for the government of the said ferrymen, and of all landing places within the City of Montreal, as they shall deem expedient: provided always, that all rules and regulations made in the behalf aforesaid, by the said Justices of the Peace, and in force at the time of the passing of this Ordinance, shall remain in force and be observed under the direction of the said Council, until they shall

repeal or alter the same: and provided also, that nothing herein contained, shall in any way diminish the powers of the Trinity House of Montreal, or the power of the said Justices of the Peace, or of the Governor, Lieutenant Governor, or person administering the Government of this Province, to grant or refuse a license to any ferryman, or to save any person from being liable to any penalty by law imposed, on persons acting as ferrymen without such licence.

XVIII. And be it further Ordained and Enacted, that in addition to the subjects, matters and things, for and with regard to which the said Council are by the said Ordinance authorised and empowered to make by-laws, it shall be lawful for the said Council to make by-laws, which shall be binding on all persons within the said City, for the following purposes, that is to say:—

For establishing a board or boards of health, for and within the said City, and for appointing the members thereof, and for making all such regulations as they may deem necessary for preserving the inhabitants thereof from contagious and infectious diseases, or for diminishing the danger of, or arising from the same; and for imposing such penalties not exceeding five pounds currency, and such imprisonment not exceeding thirty days, for any one offence, as they shall deem necessary for enforcing such by-laws and regulations:

For regulating the measurement of all firewood, coals and salt, and the weight and measurement of all grain brought into the said City, for sale and consumption therein, and for appointing measurers and weighers of all such articles, and establishing and regulating the fees to be paid to such officers, and the duties they shall perform:

For assessing the proprietors of real property, for such sum or sums as may at any time be necessary to defray the expenses of making or repairing any common sewer, in any public street or highway within the said City, and immediately in front of such real property respectively, and for regulating the mode in which such assessments shall be collected and paid:

For directing and requiring the removal, at any time not less than six months after the passing of this Ordinance, of any door steps, porches, railings or other projections into, or obstructions in any public street or highway within the said City, by and at the expense of the proprietors of the real property in, or on which such projection or obstruction shall be found:

For defraying out of the funds of the said City, the expense of lighting the said City, or any part thereof with Gas, or with oil or in any other manner, and of performing all such work of any kind as may be necessary for such purpose; and for obliging the proprietors of real property, in any part of the City so lighted or to be lighted, to allow such work to be performed on, or in such property, respectively, and such pipes, lamps, lamp-posts, and other contrivances or things as may be necessary for the purpose aforesaid to be fixed in, or

upon such property or any building thereon; the expence of all such work being in every case defrayed by the said Council, and out of the funds of the said City:—

For altering the level of the foot paths or side, walks in any street or highway within the said City, in such manner as the said Council shall deem conducive to the convenience, safety and interest of the inhabitants of the said City: Provided always, that the said Council shall and may make compensation out of the funds of the said City, to any person whose property shall be injuriously affected by any such alteration of the level of any footpath in front thereof:—

For regulating all vehicles of any kind whatever in which any articles shall be exposed for sale in any public market, or in any street or public place within the said City, and for imposing a duty or duties on such vehicles and establishing the mode in which such duty or duties shall be collected and paid:

And by any such by Law for any of the purposes aforesaid or for any of the purposes for which they are authorized by this Ordinance to make any by-law, the said Council may impose such fines not exceeding five pounds, and such imprisonment not exceeding thirty days, as they may deem necessary for enforcing the same.

XIX. And be it further Ordained and Enacted, that the said Council shall have full power and authority by any by-law, to change the site of any market or market place within the said City, or to establish any new market or market place, or to abolish any market or market place then or now existing, or to appropriate the site thereof, or any part of such site, for any other public purpose whatever; any law, statute, or usage, to the contrary notwithstanding; saving to any party aggrieved by any act of the said Council under the authority of this section, any remedy such party may by law have against the Corporation of the said City, for any damage by such party sustained by reason of such act.

XX. And be it further Ordained and Enacted, that the seventh section of the act of the Provincial Legislature, passed in the thirty-ninth year of the Reign of His Majesty King George the Third, and intituled, “An Act for the better regulating the Weights and Measures of this Province.” shall be and is hereby repealed, in so far as regards the said City of Montreal, and from and after the passing of this Ordinance, the said Council may cause the different articles sold in any Market, to be weighed and measured (when required by any party interested therein,) by such person or officer and under such regulations, and on the payment of such fees, as the said Council shall, by a by-law, from time to time appoint and make in that behalf.

XXI. And be it further Ordained and Enacted, that the fourteenth section of the Act of the Provincial Legislature passed in the forty-seventh year of the Reign of His Majesty King George the Third, and intituled “An Act for building a New Market House in the City of Montreal, for removing part of the stalls on the old market place and regulating the same,

and to authorize the borrowing a certain sum of money for those purposes," shall be and is hereby repealed; and all prosecutions for offences against any rules or regulations, validly made or to be made concerning any market or market place in the said City, shall and may be prosecuted in the name of the Corporation of the said City, by such person or persons as the Council thereof shall from time to time appoint for that purpose.

XXIII. And be it further Ordained and Enacted, that any space under cover along the sides of the market place established by the Provincial Act last above cited, may be let by the said Corporation for the purpose of selling or exposing to sale therein, any kind of commodity or articles whatever; any thing in the said act to the contrary notwithstanding.

XXIII. And be it further Ordained and Enacted, that the nineteenth section of the Provincial Act last above cited shall be and is hereby repealed; and all fines and penalties imposed by or under the authority of the said act, or by the said Council by virtue of any powers vested in them with regard to the Market or Market Place in the said act mentioned, shall be appropriated in the manner hereinafter provided with respect to the fines and penalties imposed by any By-law of the said Council.

XXIV. And be it further Ordained and Enacted, that the fiftieth section of the said Ordinance shall be, and is hereby repealed.

XXV. And be it further Ordained and Enacted, that from and after the passing of this Ordinance, and until the first day of May next after the passing thereof and no longer, all and every the powers and authority, privileges, duties and obligations vested in, or imposed on the "Fire Society," in, and for the said City, under and by virtue of a certain Ordinance passed, in the second year of Her Majesty's Reign, and intituled, "An Ordinance to suspend for a limited time certain parts of two Ordinances therein mentioned, as far as the same relate to the City of Montreal, and to establish a Society therein for preventing accidents by fire," shall be, and are hereby transferred to, and vested in and imposed upon the said Council of the said City, who are hereby substituted for the said "Fire Society" to and for all intents and purposes whatsoever, except only in those cases in which provision is hereby made to the contrary; and the said "Fire Society" shall forthwith deliver and pay over to the said Council all books, papers, documents, monies, and things in the possession of such "Fire Society," at the time of the passing of this Ordinance: Provided always, that so much of the said Ordinance as provides for the appointment of the members of the said "Fire Society," or of the President thereof by the Governor of this Province, or for the appointment of any Secretary or Treasurer, other than the Clerk or Treasurer of the said Council, and their Assistants; and so much thereof as limits the fines and penalties to be imposed for the infraction of any regulations or by-laws, made under the authority of the said Ordinance, or requires that the by-laws made under its authority should be passed or published in any special manner or should be confirmed by any Court or Judges, or as relates to the number of members of the Society who shall form a quorum, or to the duties of any member of the Society within or with regard to any particular ward or division of the said City; or as directs



that the accounts of the said Society shall be made up to and at any particular time, or that prosecutions for the recovery of monies or of penalties shall be instituted by the Secretary-Treasurer of the Society, or that the said officer shall defend any action instituted against the Society, and, generally so much of the said Ordinance as may be in any wise inconsistent with, or repugnant to the provisions of the Ordinance to incorporate the City and town of Montreal as hereby amended, shall be and so much of the said Ordinance passed in the second year of Her Majesty's Reign is hereby repealed; and the by-laws and regulations which the said Council is authorized to make, alter or repeal under the provisions of this section, and by virtue of the powers heretofore vested in the said "Fire Society" and hereby transferred to the said Council, may be passed, and shall be subject to disallowance, and shall, if not disallowed have force and effect, in the same manner and under the same provisions as other by-laws of the said Council, and may be enforced by fine and imprisonment to a like amount and for alike time: Provided always, that all by-laws of the said "Fire Society" in force at the time of the passing of this Ordinance, shall remain in force until repealed or altered by the said Council, and all fines thereby imposed may be sued for and recovered as if imposed under the authority of this Ordinance;—and so much of all such fines and penalties, whether imposed by any by-law of the said Society or of the said Council, as shall belong to the Corporation of the said City, and all monies to be received and collected by the said Council under the powers vested in them by this section, shall form part of the general funds of the said City, and shall and may be applied by the said Council, who may apply and are hereby authorized to apply such part of the said general funds as they may deem expedient, to any purposes for which the said "Fire Society," was before the passing of this Ordinance authorized to apply any part of the funds at their disposal: any thing in any Ordinance or law to the contrary notwithstanding.

XXVI. And be it further Ordained and Enacted, that from and after the Said first day of May, next after the passing of this Ordinance, the said Ordinance passed in the second year of Her Majesty's Reign, and intituled, "An Ordinance to "suspend for a limited time certain parts of two Ordinances therein mentioned as far as the same relate to the City of Montreal, and to establish a Society therein for preventing accidents by fire" and all by-laws made by the said Fire Society, or by the said Council, under the authority of by the said Ordinance, shall be repealed; and the books, papers, documents, monies, and things delivered and paid over to the said Council, in pursuance of the next .preceding section of this Ordinance, shall remain the property of the Corporation of the said City, and under the control of the said Council.

XXVII. And be it further Ordained and Enacted, that from and after the said first day of May, next after the passing of this Ordinance, a certain Ordinance passed in the seventeenth year of the Reign of His late Majesty King George the Third, and intituled, "An Ordinance for preventing accidents by fire," and a certain Ordinance passed in the thirtieth year of the Reign aforesaid, and intituled, "An Act or Ordinance to amend, an Act or Ordinance for preventing accidents by fire, passed in the seventeenth year of His Majesty's Reign," and a certain Act passed in the fifty-ninth year of the same Reign, and intituled, "An Act to repeal in part an Ordinance passed in the seventeenth year of His Majesty's Reign, intituled, 'An

Ordinance for preventing accidents by fire,' and for other purposes therein mentioned," shall be, and remain repealed, in so far as they relate to the said City of Montreal.

XXVIII. And for the better protection of the lives and property of the inhabitants of the said City, and for preventing accidents by fire therein, be it further Ordained and Enacted, that from and after the said first day of May next after the passing of this Ordinance, the said Council of the said City shall have full power and authority to make by-laws, which shall be binding on all persons within the said City, for the following purposes; that is to say:

For establishing such rules and regulations as they shall deem expedient for preventing accidents by fire, and for the conduct of all persons present at any fire within the said City:

For appointing all such officers as they may deem necessary for carrying such rules and regulations as aforesaid into effect, and for prescribing the duties of such officers, and providing for their adequate remuneration out of the funds of the said City:

For defraying, out of the said funds, any expenses which they may deem it right to incur, for the purchase of engines or apparatus of any kind, or for any other purpose relative to the prevention of accidents by fire, or to the means of arresting the progress of fires:

For authorizing such officers, as shall be appointed by the Council for that purpose, to visit and examine at suitable times and hours, to be established in such by-laws, as well the interior as the exterior of all houses, buildings and real property of any description within the said City, for the purpose of ascertaining whether the rules and regulations to be made as aforesaid have been duly observed and obeyed; and for obliging all proprietors, possessors or occupants of such houses, buildings or real property, to admit such officers and persons into and upon the same, at the times and for the purposes aforesaid:

For causing all Chimnies within the said City to be swept in such manner, by such persons, and at such times as the said Council shall appoint:

For vesting in such members of the said Council, and in such officers as shall be designated in such by-laws, the power of causing to be demolished or taken down, all buildings or fences which such members or officers shall deem necessary to be demolished or taken down, in order to arrest the progress of any fire:

For preventing thefts and depredations at fires, and for punishing any person who shall resist or maltreat any member or officer of the Council in the execution of any duty assigned to him, or in the exercise of any power, vested in him, by any by-law made under the authority of this section:

For defraying out of the funds of the City, any expense to be incurred by the said Council in assisting any person in their employ, who shall have received any wound or contracted any

disease at any fire, or in assisting or providing for the family of any person in their employ who shall perish at any fire, or in bestowing rewards in money, medals or otherwise, upon any person who shall have performed any meritorious action at any fire.

For imposing, over and above all other rates, assessments, or duties which the said Council are empowered to impose, such tax or duty on and in respect of each chimney actually used in the said City, and payable by the occupant of the house or building in which such chimney shall be, as they shall deem expedient; and for regulating the times and manner in which such tax or duty shall be collected and paid: Provided always, that the said Council shall make no further charge for causing any chimney to be swept, in the manner to be provided by any by-law in that' behalf as aforesaid.

XXIX. Provided always, and be it further Ordained and Enacted, that the said Council shall and may out of the funds of the said City, pay and discharge all debts and obligations lawfully contracted by the said Fire Society, and due at the time of the passing of this Ordinance; and shall also pay and continue to pay the annuity or retiring allowance, payable before the passing of this Ordinance by the Fire Society aforesaid, to the person or persons who immediately before the establishment of the said Fire Society, held the office of Overseer to prevent accidents by fire, for the said City of Montreal.

XXX. And be it further Ordained and Enacted, that the said Council shall have full power and authority, notwithstanding any law to the contrary, to purchase and acquire, or to take and enter into after paying, tendering or depositing the value thereof, to be ascertained as hereinafter provided, such land, ground or real property of any description within the said City, as may by them be deemed necessary for opening new streets, squares, market-places, or other public highways or places, or for continuing, enlarging, or otherwise improving those streets, squares, marketplaces or other public highways or places now made, or as a site for any public building to be erected by the said Council, and to pay to; or for the use of the proprietor or proprietors of such ground or real property, and out of any funds of the: said City now in, or which shall hereafter come into their hands, such sum or sums of money as may be agreed upon as the value of such ground or other property, by the party proprietor thereof and the said Council respectively, or ascertained in the manner hereinafter mentioned, in case they shall not so agree upon the same.

XXXI. And be it further Ordained and Enacted, that it shall be lawful for all Corporations, aggregate or sole, husbands, tutors, or guardians, curators, greve de substitution, and all trustees whatsoever, who are or shall be seized or possessed of, or interested in, any piece or pieces, parcel or parcels of ground or other real property within the said City, selected and fixed upon . by the said Council for any of the purposes aforesaid, not only for themselves, their heirs and successors, but for and on behalf of all persons whom they represent, or for whom or in trust for whom they are or shall be seized, possessed or interested as aforesaid, whether minors or issue unborn, lunatics, idiots, femmes covert, or other person or persons, to contract for, sell and convey such piece or pieces, parcel or

parcels of ground, to the Corporation of the Mayor, Aldermen and Citizens of the City of Montreal, and such contracts, sales, and conveyances shall be valid and effectual in law, to all intents and purposes whatsoever; any law or custom to the contrary notwithstanding: And all Corporations and persons whatsoever, so contracting, selling or conveying as aforesaid, are hereby indemnified for and in respect of any such sale, which he, she, or they shall respectively make by virtue of or in pursuance of this Ordinance, saving always the rights of any person or party to the whole, or any part of the purchase money or compensation to be paid by the said Corporation for any real property purchased or taken as aforesaid.

XXXII. And be it further Ordained and Enacted, that in all cases where the said Council, and the persons seized, or possessed of, or interested in the said pieces or parcels of ground, or other real property, or any of them, or of any part thereof, shall be absent, or shall not be known, or shall not, by voluntary agreement or by arbitration, settle and determine the price and prices, compensation and compensations to be paid for the said premises, or any part thereof, such price and prices, compensation and compensations shall be ascertained, fixed and determined in manner following, that is to say:—the Justices of the Peace resident within the said City and Town of Montreal, in a special session to be for that purpose holden upon a Petition to them addressed, and upon proof that notice in writing was given one month previously to the party seized, possessed of or interested in such pieces or parcels of ground or real property, or to his, her, or their tutor, curator, administrator, attorney, agent, or curator ad hoc, of the intention of the said Council to present such Petition to the said Justices of the Peace, for the purpose of taking possession of, entering into, and appropriating to the use of the said Corporation, such pieces or parcels of ground or other real property, shall summon a Jury of twelve disinterested persons taken from among the persons resident within the said City, qualified to be special Jurors in civil cases, and the said Jury shall determine upon their oaths the amount of the price or compensation which they shall deem reasonable to be paid by the said Corporation, for such pieces or parcels of ground or real property as aforesaid: Provided always, that any determination as aforesaid, in which any nine of the Jurors shall agree, shall for the purposes of this Ordinance have the same effect, as if all the Jurors had agreed therein.

XXXIII. And be it further Ordained and Enacted, that on payment of the price or prices, compensation or compensations to be fixed and determined as aforesaid, or in case of refusal or neglect to accept the same, or in case it be doubtful to what person, or party the same shall of right belong, on the deposit thereof, in the hands of the Prothonotary of the Court of King's Bench for the District of Montreal, or in the hands of the Prothonotary of the second Division of the Court of Common Pleas for this Province, for the use of the person or persons or party entitled to the same, the right of property, title and interest in and to such pieces or parcels of ground or other real property, respectively, for which such price or prices, compensation or compensations shall be payable, shall be divested out of the person or persons or party seized and possessed thereof or entitled to the same, and shall become and be vested in the Corporation of the Mayor, Aldermen and Citizens of the City of

Montreal; and the Council of the said City may, after fifteen days notice in that behalf to the proprietor, possessor or occupant of the piece or parcel of land to which such award shall relate, enter upon, take possession of, and use such pieces or parcels of land for any of the purposes authorized by this Ordinance or the Ordinance herein first cited and amended; any law, statute, or usage to the contrary notwithstanding.

XXXIV. And be it further Ordained and Enacted, that all the provisions and enactments of the two sections next immediately preceding this section, with regard to the mode in which the value of any real property taken by the said Council shall be ascertained, and the amount thereof paid or deposited in certain cases, shall be and are hereby extended to all cases, in which it shall become requisite to ascertain the amount of compensation to be paid by the Council, to any proprietor of real property for any damage by him sustained, by reason of any alteration made by order of the said Council in the level of any footpath or side walk, or to any party by reason of any other act of the said Council for which they are bound to make compensation, and with regard to the amount of compensation, for which damage the party sustaining the same and the said Council shall not agree.

XXXV. And be it further Ordained and Enacted, that all Corporations, ecclesiastical or civil, whose property or any part of whose property shall be conveyed to, or taken by the said Corporation of the City of Quebec, under the authority of this Ordinance or of the Ordinance herein first cited and amended, may invest the price or compensation paid for the property so conveyed or taken, in other real property in any part of this Province, and may take and hold the same without Her Majesty's Letters of mortmain; any law to the contrary notwithstanding.

XXXVI. And be it further Ordained and Enacted, that all monies due or payable to the said Council as the amount of any rate, assessment, tax, duty or impost lawfully imposed by, or payable to the said Council, under the authority of the said Ordinance to incorporate the City and Town of Montreal, or of this Ordinance, may be sued for and recovered with costs, in a summary manner and on the oath of one or more credible witnesses, before any two or more Justices of the Peace for the District of Montreal, at any weekly sitting of such Justices in the City of Montreal; and the amount so recovered and the costs aforesaid, shall and may be levied by distress and sale of the goods and chattels of the party defendant, by warrant under the hand and seal of such Justices, or of any one of them, if not forthwith paid to the Treasurer of the said Corporation.

XXXVII. And be it further Ordained and Enacted, that all offenders against any by-law lawfully made or to be made by the said Council, or by the said Fire Society, or by any Justices of the Peace, or other functionaries whatsoever, in whose place and stead the said Council have been or hereby are substituted, by virtue of any power transferred to and vested in the said Council, may be prosecuted before any two or more Justices of the Peace for the District of Montreal, at any such weekly sitting as aforesaid, and such Justices shall have full power and authority on the conviction of any such offender (and any such offender

may be convicted on the oath of any one credible witness other than the informer or prosecutor) to award the penalty or the imprisonment, as the case may be, imposed by any such by-law for the offence of which such offender shall be convicted, with the costs of prosecution, against such offender, and to commit such offender to the Common Gaol of the District, if the offence be punishable by imprisonment, and to levy such penalty with costs, if not forthwith paid, by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of any one of such Justices; and one moiety of any such penalty shall go to the informer or prosecutor, and the other moiety shall be paid to the Treasurer of the said Corporation, and form part of the funds at the disposal of the said Council. Provided always, that any such prosecution may be brought and conducted in the name and on the behalf of the said Corporation, and in that case the whole of any such penalty as aforesaid, shall be paid to the said Treasurer and form part of the funds aforesaid; and provided also, that the Mayor of the said City, or any member of the said Council being a Justice of the Peace for the said District of Montreal, may act as a Justice of the Peace under the provisions of this section and of the section next preceding it, and any member, officer or servant of the said Corporation shall be a competent witness in any suit or prosecution under the said provisions, if he have no direct interest in the issue of such suit or prosecution, or be not otherwise rendered incompetent: any law, usage or custom to the contrary notwithstanding.

XXXVIII. And be it further Ordained and Enacted, that all the provisions of the forty-second section of the said Ordinance to incorporate the City and Town of Montreal, shall be and are hereby extended to all by-laws to be made by the said Council under the authority of this Ordinance.

XXXIX. And be it further Ordained and Enacted that nothing in this Ordinance contained, shall in any manner derogate from or affect, or be construed to derogate from, or affect the rights of Her Majesty, her heirs and successors, except in so far only as the same may be expressly derogated from or affected by the provisions of this Ordinance.

XL. And be it further Ordained and Enacted, that the words "Governor of this Province," wheresoever they occur in this Ordinance, shall be understood as meaning and comprehending the Governor, or any person authorized to execute the commission of Governor within this Province, for the time being.

XLI. And be it further Ordained and Enacted, that this Ordinance shall be held and taken to be a public Act, and as such shall be judicially taken notice of by all Judges, Justices, and persons whomsoever, without being specially pleaded.

XLII. And be it further Ordained and Enacted, that this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

SYDENHAM.

Ordained and Enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House, in the City of Montreal, the Ninth day of February, in the Fourth year of the Reign of Our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of Our Lord one thousand eight hundred and forty-one.

By His Excellency's Command,  
W. B. LINDSAY,  
Clerk Special Council.