

The Provincial Statutes of Lower-Canada, Being the first session of the Third Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1801.

41 George III – Chapter 10

**An Act for supplying the City of Montreal and the parts thereunto adjacent with Water.
(8th April, 1801)**

Whereas the supplying of the City of Montreal and the parts thereunto adjacent, with good and wholesome Water, will be essentially advantageous to the inhabitants of the said City of Montreal and other parts thereunto adjacent; And whereas Joseph Frobisher, John Gray, Daniel Sutherland, Thomas Schieffelin and Stephen Sewell, are willing and desirous, and have undertaken, at their own costs and expence, to construct the works necessary for supplying the said City of Montreal, and the parts thereunto adjacent, with water, as aforesaid; And whereas the purposes aforesaid, cannot be effected without the aid and assistance of the Legislature. 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 of 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 it is hereby enacted by the authority of the same, that from and after the passing of this Act, the said Joseph Frobisher, John Gray, Daniel Sutherland, Thomas Schieffelin and Stephen Sewell and their several and respective Successors, Heirs, Executors, Curators, Administrators and Assigns, are and shall be united, into a Company for supplying the said City of Montreal, and the parts thereunto adjacent, with good and wholesome water, and for executing the several powers vested in them by this Act, and shall for these purposes, be and are hereby declared, to be one Body Politic and Corporate, by the name of the Company of "Proprietors of the Montreal Water Works," and by that name, shall have perpetual Succession and a common Seal, and Shall and may sue and be sued in all Courts and places, within this Province, or shall and may do, all other matters and things whatsoever, in as full and ample manner and form to all intents and purposes, as any Body or Bodies Corporate can or may as such lawfully do; And that in every suit to be commenced against the said Company of Proprietors, the Process being served upon their Treasurer or Clerk, personally, or at the domicile of either of them, shall be deemed sufficient service upon the said Proprietors; and that the said Company of Proprietors shall and may have power and authority to purchase and hold any Lands, Tenements, immoveable Estate, Usufruit, Servitudes and Hereditaments to them and their Successors and Assigns, which shall be necessary for constructing the said Works, and for no other purposes whatsoever, without Lettres d'amortissement and without being subject, by reason of any such purchase, to the payment of any Droit d'amortissement to His Majesty, his Heirs or Successors; saving nevertheless to the Seigneur or Seignors, within whose Censive, the Lands Tenements, immoveable Estate and Hereditaments so purchased, may be

situate, his and their several and respective Droits d'indemnité, and all other Seigniorial rights whatsoever, and also to sell any of the said Lands, Tenements, immoveable Estate, Usufruit, Servitudes and Hereditaments purchased for the purpose aforesaid; and any person or persons or Bodies Politic or Corporate may give, grant, bargain, sell or convey to the said Company of Proprietors any Lands, Tenements, immoveable Estate, Usufruit, Servitudes or Hereditaments for the purposes aforesaid, and the same of the said Company re-purchase, without licence of Alienation or Lettres d'amortissement.

II. And be it further enacted by the authority aforesaid, that it shall be lawful for the said Company of Proprietors, and they are hereby authorised and empowered by themselves, their Agents, Deputies, Officers, Workmen, Servants and Assistants, from time to time, to make, erect, construct, repair and maintain all such Buildings, Houses, Sheds, Engines, Water Houses, Reservoirs, Reservatories, Water Wheels, Fire Engines, Machinery, working Gears, Cisterns, Ponds, Basons of water, Main Pipes, Rider Pipes, Stand Pipes, Service Pipes, Branches of lead and other Metals, Cocks, Chambers, Cocks in Common, Stop Backs, Valves, Fire-plugs, Air-plugs, Fire-cocks, Boxes, Forcing-mains, Ferrils, Feeders, Campins, Drains, Pumps, Sluices and other works, devices and things, in such manner and of such construction as they shall think necessary, proper and expedient for forcing, conveying and conducting into and throughout the whole of the said City of Montreal, and the parts thereunto adjacent, a sufficient quantity of good and wholesome Water, for the use and supply of the said Inhabitants of the said City of Montreal; and the parts thereunto adjacent, and for those purposes, it shall be lawful for the said Company of Proprietors and their Agents, Deputies, Officers, Workmen, Servants and Assistants, to dig, break up, and remove the soil, posts, sewers, drains, pavements and gravel led ways of any of the Streets, Squares, Market places, Lanes, Hills, open Areas, Alleys, Yards, Courts, Roads, waste Grounds, Foot ways, Quays, Bridges, Gates, Gate-ways, Town-ditch, City walls, Closes, Precincts, and other passages and places of the said City of Montreal and of the parts thereunto adjacent, and to enter into and make use of any private lands or grounds, within the said City and the parts thereunto adjacent, and to dig and sink branches, and lay and drive pipes, and put, fix and establish stop cocks, Fire plugs, Air cocks and Branches from such Pipes, and to widen common passages, for the laying and fixing such Pipes and all such matters and things as aforesaid, in such places and in such manner as they shall judge necessary, for conveying the water to the respective Houses, Offices and other Tenements of the said Inhabitants of the said City of Montreal, and the parts thereunto adjacent, and from time to time as occasion may require, to alter the position of and to repair, relay, and maintain such Pipes, Stop cocks, Plugs, Machinery, Conduct-pipes, Devices, Matters and Works aforesaid, and to do and perform all such other Acts, as shall from time to time be necessary or proper for compleating, amending, repairing, improving and using the works already made or provided, or to be made, done or provided, for the purposes aforesaid. Provided always, that it shall not be lawful, for the said Company of Proprietors, or any Person asking under their authority, to enter into and make use of any private Lands or grounds, within the said City of Montreal and the parts thereunto adjacent, without the consent of the owner or owners thereof. And Provided also, that the respective persons who shall open or break up or cause to be opened or broken up any ground for laying, taking, or repairing any pipe or other work

as aforesaid, by virtue of this Act, shall and are hereby required to cause the trenches to be filled in, and the pavement or ground made good, and the rubbish occasioned thereby to be carried away, as soon as may be, within the time fixed upon, by a written order from a Justice of the Peace, and in the mean time shall cause the place where the ground shall be opened or broken up as aforesaid, to be fenced or guarded, so as that the same may not be dangerous to passengers, upon pain of forfeiting for every neglect, a sum not exceeding Five Pounds Current money of this Province.

III. And be it further enacted by the authority aforesaid, that the said Company of Proprietors shall be held and obliged to make, erect, construct, repair and keep in good order, at their own charge and expence in such parts of the City and Suburbs of Montreal, as may be fixed upon by the Justices in their General Quarter Sessions of the Peace, such number of good and sufficient Fire-plugs, not exceeding sixteen, as may by the Justices aforesaid be found necessary, for the purposes of supplying fire Engines, and of giving such other assistance as may be useful and necessary for extinguishing fires and preventing the communication thereof. Provided always, that the said Company of Proprietors shall not be compelled to make, erect or construct any Fire-plugs as aforementioned, in any part of the City or Suburbs of Montreal, where they have not made or constructed Pipes for conveying water.

IV. And be it further enacted by the authority aforesaid, that it shall and may be lawful for the said Company of Proprietors and their Successors, to raise and contribute, among themselves, and in such proportions, as to them shall seem meet and convenient, for supplying the said City of Montreal, and parts thereunto adjacent, with good and wholesome water, and for other the purposes aforesaid and none else, any sum not exceeding the sum of eight Thousand Pounds Current money of this Province, and that the same be divided into eighty equal shares, and that no person subscribing or becoming a Proprietor in the said undertaking, do become a Proprietor in any manner or way whatsoever of more than sixteen shares, nor of less than one share, except the same come to him or her by Will, or as an Heir, Executor, Curator or Administrator, or in right of his Wife or by some other Act in Law.

V. And be it further enacted by the authority aforesaid, that the said shares, into which the said subscription money shall be divided, shall be and the same are hereby vested in the several persons before named as Proprietors, and their several and respective Heirs, Executors, Curators, Administrators and Assigns, proportionally, to the sum they and each of them shall severally and respectively subscribe and pay thereunto, and shall be deemed, moveable Estate, and all and every person and persons, his, her and their several and respective Heirs, Executors, Curators, Administrators and Assigns who hath or have already subscribed or who shall, severally subscribe and pay in the sum of one Hundred Pounds; Current money of this Province, or such sum, as shall be demanded in part thereof, towards constructing the Works which shall be necessary for supplying the said City of Montreal, and parts thereunto adjacent with good and wholesome water, and completing the same, shall be intitled to receive after the said works shall be compleat, the entire and net distribution

of one part or share proportionate to the sum so subscribed, of and in the profits and advantages that shall and may rise and accrue from the said works, and so in proportion for any greater number of shares net exceeding sixteen shares; and that every person shall have votes according to the number of shares, he, she or they, are possessed of in the said undertaking and no more, in every public meeting to be held as herein after appointed for carrying on the said undertaking: which vote or votes may be given, by any Proprietor or Proprietors, either in person or by his, her or their Proxy or Proxies appointed by writing or writings, under his, her or their hand and seal or hands and seals, and such vote by such Proxy, shall be as effectual, to all intents and purposes, as if the principal or principals had voted in person, and whatsoever question, election of Officers or other matter or thing, shall be proposed, discussed or considered in any public meeting, to be held in pursuance of this Act, the same shall be finally determined by the majority of votes and Proxies, then present, and the chairman, at every such meeting, in case of a division of equal numbers, shall have the casting vote, altho' he shall have voted before: Provided that no person shall vote as Proxy unless he be a Proprietor.

VI. Provided always, and be it further enacted, that in case the said sum of eight Thousand Pounds Current money herein before authorised to be raised, shall be found inefficient, for supplying the said City of Montreal and parts thereunto adjacent with water as aforesaid, and for completing the works and purposes hereby authorised to be done, then and in such case, and not otherwise it shall be lawful for the said Company of Proprietors, their Successors, Heirs, Executors, Curators, Administrators and Assigns, to raise and contribute among themselves, in such shares in manner and form aforesaid, any further or other sum of money, for completing and perfecting the said undertaking and other the works and purposes aforesaid, not exceeding the sum of four Thousand Pounds Current money of this Province; Provided always, that it shall not be lawful for any individual to subscribe for or hold a greater number than eight shares of such additional subscription of four Thousand Pounds as aforesaid.

VII. And be it further enacted by the authority aforesaid, that all and every person or persons who shall be admitted by the said Company of Proprietors, or the major part of them, as subscribers for the said original sum of eight Thousand Pounds and as subscribers for the said further sum of four Thousand Pounds, or any part thereof, shall thereupon succeed as a constituent Member or constituent Members of the Body Politic incorporated by this Act, and as a Proprietor or Proprietors of the said Montreal water works, in the same manner, to all intents, constructions and purposes, as if he, she or they had been appointed by this Act, a Proprietor or Proprietors of the said Montreal Water Work.

VIII. And be it further enacted by the authority aforesaid, that the general meeting of the said Company of Proprietors, for putting this Act in execution, shall be held in such place in the City of Montreal, as the said Company of Proprietors, or the major part of them, shall at some public meeting, to be held in pursuance of this Act, appoint for holding any of the said meetings; and that the first general meeting of the said Company of Proprietors shall be held in the Montreal Coffee House, in the City of Montreal aforesaid, on the third Wednesday

next after the passing of this Act, and that the second general meeting, shall be held on the last Wednesday in November, then next ensuing, and the like general meetings shall be held the last Wednesday in March and the last Wednesday in November, in every year afterwards, at or before the hour of eleven of the clock in the forenoon; but if at any time, it shall appear to any three or more of the said Company of Proprietors, that for the more effectually putting this Act in execution, a special meeting of Proprietor is necessary to be held, it shall be lawful for such three or more of them to cause notice to be given thereof in the Montreal Gazette, or in such other manner as the said Company of Proprietors shall at any general meeting direct or appoint, declaring in such Notice, the place where, and the time when, such special meeting is to be held, the same being not less than ten days after such Notice given, and likewise specifying in every such Notice, the reason for and the intention of such special meetings respectively, and the said Company of Proprietors are hereby authorised to meet, pursuant to such Notices, and proceed to the execution of the powers by this Act given them, with respect to the matters so specified only; and all such Acts of the said Company of Proprietors, at such special meetings assembled, shall be as valid, to all intents and purposes as if the same were done, at general meetings held in manner herein before appointed.

IX. And be it further enacted by the authority aforesaid, that at the first general meeting of the said Company of Proprietors, herein before directed to be held, the Proprietors there assembled, together with such Proxies, as shall then be produced, or the major part of such Proprietors or Proxies, shall chuse not more than five, nor less than three persons, (for the time being Proprietors of the said undertaking,) which persons lo chosen, shall be a Committee to manage, direct and carry on the constructing of the works necessary for supplying the said City of Montreal and parts thereunto adjacent, with water, and the affairs and business of the said Company of Proprietors for the year then next following, or until another Committee shall be appointed, and to do all matters and things whatsoever relating thereto, and particularly such matters and things as are by this Act directed to be done by such Committees, and as shall, from time to time, be ordered by such general or special meetings as aforesaid; and at the said first meeting the said Proprietors and Proxies or the major part of them, shall also chuse and appoint a Treasurer, without any salary, and also a Clerk with a fixed salary, who shall attend the several meetings of the said Company of Proprietors and the meetings of the said Committees, and make entries of the proceedings in proper Books to be kept, by him, for that purpose, and do whatsoever shall be ordered at such meetings respectively, for the purposes of this Act.

X. And be it further enacted by the authority aforesaid, that the said Committee of Proprietors shall be afterwards annually chosen, at a general meeting of Proprietors, and shall meet in the said City of Montreal constantly every Month, (or oftener if the said Committee, shall find it necessary) at a day, hour and place, to be appointed, until the said works for supplying the said City of Montreal and parts thereunto adjacent with water, shall be completed; and as often afterward, at such place in the said City of Montreal, to be by them appointed, after seven days Notice given thereof by the Clerk of the said Company of Proprietors, as occasion may require, and in order to defray the expence of the meetings of

the said Committee, it shall be lawful for the said Committee, and they are hereby allowed to expend or detain to themselves, such sums of money out of the capital stock or profits of the said Company of Proprietors, for their expences in attending such meetings as at some previous general meeting of the said Company of Proprietors shall be settled and allowed. Provided always, that no Member of the said Committee shall have more than one vote in the said Committee except the Chairman, who shall be chosen by themselves, and who in case of a division of equal numbers, shall have the carting vote, altho' he has given one vote before. Provided also, that such Committee shall from time to time, make report of their proceedings to, and be subject to the examination and controul of the said general meetings of the said Company of Proprietors, and shall pay due obedience to all such orders and directions, in and about the premises as shall from time to time be made by the said Company of Proprietors, at any general meeting, such orders and direction not being contrary to any express directions or provisions of this Act.

XI. And be it further enacted by the authority aforesaid, that the said Company of Proprietors, shall always have power and authority at any general meeting, to remove or displace any Person or Persons chosen to be of the Committee as aforesaid, of other Officer or Officers under them and to appoint some other Person or Persons in the room of the Person or Persons so removed or displaced; and shall have power to make such Rules, Bylaws and Orders for the good Government of the said Company, and the good and orderly managing of the said works to be aforesaid constructed, by the said Company of Proprietors for the purposes aforesaid, and from time to time to alter and repeal the said Bye laws, Orders and Regulations, and to impose and inflict such reasonable fines and forfeitures to the use of the said Company of Proprietors upon all Persons, being Members of the said Company of Proprietors, and offending against the same, not exceeding the sum of five Pounds Current money of this Province, for any one offence, as to the major part of such general meeting shall seem meet, such fines and forfeitures to be levied and recovered by such ways or means, as fines or forfeitures are by this Act directed to be levied and recovered, which said Rules, Bye-laws and Orders being put into writing under the common Seal of the said Company of Proprietors, shall be binding, and be observed by all panics, and shall be sufficient in any Court of Law or Equity, to justify all persons who shall act under the same. Provided, that they be not repugnant to Law, nor to any of the causes and provisions in this Act contained.

XII. And be it further enacted by the authority aforesaid, that it shall be lawful for the said several Proprietors to sell and dispose of any share or shares, he, she or they shall and may be intituled to in the said undertaking; and any purchaser or purchasers shall, for his, her or their security, as well as that of such Proprietor or Proprietors, have a Duplicate or Duplicates of the Deed or Conveyance made unto him, her or them and executed by both parties; one part whereof, so executed, shall be delivered to the said Company of Proprietors, for the time being, or their Clerk, to be filed or kept for the use of the said Company of Proprietors: And an entry thereof, shall be forthwith made in a book or books, to be kept by the said Clerk for that purpose, for which no more than five shillings shall be paid; and until such Duplicate of such Deed shall be so delivered, unto the said Company of

Proprietors, or their Clerk, and filed and entered as above directed, such purchaser or purchasers shall not be held so be a Proprietor or Proprietors, and shall have no part or share of the profits of the said undertaking paid unto him, her or them, nor any vote as a Proprietor or Proprietor.

XIII. And he it further enacted by the authority aforesaid, that the Conveyance or Transfer of the said shares shall be in the following form, to wit,

"I A. B. of _____ in consideration of the sum of _____ do hereby bargain, sell and transfer to C. D. (his, her, or their) Heirs, Executors, Curators, Administrators and Assigns _____ share or shares (as the case shall require) of the undertaking for supplying the City of Montreal and parts thereunto adjacent in the Province of Lower Canada, with water, to hold unto the said _____ his, her or their Heirs, Executors, Curators, Administrators and Assigns, subject to the same Rules and Orders and on the same conditions that I now hold the same; and I the said C. D. do accept of the said share (or shares) of the said undertaking, subject to the said Rules, Orders and conditions. Witness our bonds or marks (as the case may be) the _____ day of _____ in the year of Our Lord _____."

Executed in the presence
of the undersigned Witnesses. }

XIV. And be it further enacted by the authority aforesaid, that all the Orders and Proceedings of the said Company of Proprietors, or their Committees at any of their meetings, shall be entered in a book, to be kept for that purpose, by the Clerk of the said Company of Proprietors, and shall be signed by the said Clerk and by the said Proprietors, or Members of the Committees present at such meetings, or the major part of them, and that such entries so made and subscribed, shall be admitted to be read in evidence in any Court whatsoever.

XV. And in order to preserve the water to be conveyed into the said City of Montreal, and the parts thereunto adjacent, clean and wholesome. Be it further enacted, that no person shall bathe in any of the said Reservoirs or Ponds, or wash any dogs or other animals therein, or shall cast, throw or put any dog or cat or any filth, dirt or other noisome or offensive thing, or wash or cleanse any cloth, or any wool, leather or any noisome or offensive thing, in any of the said Reservoirs, or Ponds, or cause, permit or suffer the water or any sink, sewer or drain, to run or be conveyed into any of the said Reservoirs or Ponds or cause any other annoyance to be done to the water, within any of the said Reservoirs or Ponds, or wash or cleanse the skins of any sheep, lambs or other animals, in any part of the said Sources or Fountains from which the water is, so as aforesaid, to be conveyed, upon pain of forfeiting, for every such offence, any sum not exceeding the sum of Forty shillings Current money of this Province for the first offence, and Five Pounds like money, for every subsequent offence, one half to the use of the said Company of Proprietors, and one half to him or her who shall sue for the same.

XVI. And be it further enacted by the authority aforesaid, that if any person or persons shall wilfully and maliciously hinder or interrupt the said Company of Proprietors, their Agent or Agents, Officers, Workmen, Servants or Assistants or any of them, in making, erecting, repairing or doing or performing any of the works aforesaid, or in the exercise of any of the powers and authorities, by this Act granted, or shall take away, destroy, damage or injure any Engine, Water-houses Pipe, Plug or other works or any matter or thing already made or provided, or which shall be made or provided, for the purposes aforesaid, or any of the materials used or provided for the same, or in any wise, cause or procure the same to be done, every person or persons so offending, shall for every such offence, forfeit and pay to the said Company of Proprietors, the amount of the damages sustained by means of such offence or injury, to be recovered by the said Company of Proprietors, with double costs of suit, by Action of debt, in any of the Courts of King's Bench in this Province.

XVII. And be it further enacted by the authority aforesaid, that all Penalties or Forfeitures by this Act imposed, shall be levied and recovered by distress and sale of the Goods and Chattles of the person liable to pay the same, by Warrant, under the hand and seal of any two Justices of the Peace, in the weekly Sittings for the City or District, where such person shall be or reside; which Warrant every such Justice is hereby empowered to grant, upon the information or testimony of any credible Witness, upon oath, and the overplus (if any) of the money arising by such distress and sale, shall be rendered upon demand to the owner of such Goods and Chattles after deducting the charges of such distress and sale.

XVIII. And be it further enacted by the authority aforesaid, that if any Action or Suit shall be brought against any person or persons, for any thing done in pursuance of this Act, the same shall be brought, within six Calendar Months next after the fact committed, or in case their shall be a continuation of damages, then within six Calendar Months next after the doing or committing such damages shall cease, and the Defendant or Defendants shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be had 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 any such Action or Suit shall be brought after the time before limited for bringing the same, then Judgment shall be entered for the Defendant or Defendants; or if the Plaintiff or Plaintiffs shall become nonsuit, or suffer discontinuance of his or their Action or Suit, after the Defendant or Defendants shall have appeared, or if a Judgment shall be entered against the Plaintiff or Plaintiffs, or if upon exception or otherwise, Judgment shall be given against the Plaintiff or Plaintiffs the Defendant or Defendants shall have treble costs, and shall have such remedy for the same, as any Defendant hath for costs of Suit in other cases of Law.

XIX. And be it further enacted by the authority aforesaid, that for the space of Fifty years, from and after the passing of this Act, the said Company of Proprietors of the Montreal water works and their Successors and Assigns, shall have an exclusive right of supplying the said City of Montreal and the parts thereunto adjacent, with water; and that during that period, no other Company nor Corporation shall supply the said City of Montreal, and the parts thereunto adjacent, nor either of them with water: Provided always, that the said

Company of Proprietors shall continue with all convenient speed, to make and construct the different works necessary for supplying the City of Montreal, and the parts thereunto adjacent with water, and that the principal Pipes be laid in such parts of the said City of Montreal and parts thereunto adjacent, as they the said Company of Proprietors shall, or may intend to supply with water, within the space of seven years from the day of passing this Act.

XX. And be it further enacted by the authority aforesaid that nothing herein contained shall affect, or be construed to effect in any manner or way whatsoever, the right of His Majesty, his Heirs or Successors nor of any Person or Persons or of any Bodies Politic or Corporate, such only excepted as are herein mentioned.

XXI. And be it further enacted by the authority aforesaid that this Act shall be Redeemed and taken to be a Public Act: and shall be judicially taken notice of as such, by all Judges, justices and other Persons, without specially pleading the same.