

C A P . C L X I .

An Act to increase the Salaries of Superintendents of Pilots and of the Bailiff of the Trinity House of Quebec.

[Assented to 30th May, 1855.]

Preamble.

WHEREAS it is expedient to augment the salaries of the Superintendents of Pilots and Bailiff of the Trinity House at Quebec: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

Salaries of the
said Officers
raised not-
withstanding
12 V. c. 114.

I. For and notwithstanding any thing to the contrary in the third section of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to consolidate the laws relative to the powers and duties of the Trinity House of Quebec and for other purposes*, or in any other part of the said Act or in any other Act, the salaries of each of the Superintendents of Pilots shall be two hundred and fifty pounds per annum, and that of the Bailiff of the Trinity House of Quebec, shall be one hundred and fifty pounds per annum, to be paid in the same manner and out of the same fund as provided in the said Act with regard to the salaries therein mentioned; and any provision to the contrary in the said Act or in any other is hereby repealed.

C A P . C L X I I .

An Act to amend the provisions of the several Acts for the incorporation of the City of Montreal.

[Assented to 30th May, 1855.]

Preamble.

WHEREAS it is expedient to repeal in part, and to amend the provisions of the Acts incorporating the City 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 in the said Acts: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

I. The second section of the Act made and passed in the <sup>Sect. 3 of 14
128 amended.</sup> fourteenth and fifteenth years of Her Majesty's reign, and ^{& 15 V. c.} intituled, *An Act to amend and consolidate the provisions of the Ordinance to incorporate the City and Town of Montreal, and of a certain Ordinance and certain Acts amending the same, and to vest certain other powers in the Corporation of the said City of Montreal,* shall be, and is hereby amended by striking out the words "fifty-second and fifty-third," in the fifth and sixth lines thereof, and substituting the words "fifty-fourth and fifty-fifth," in their places respectively.

II. The eleventh section of the said last cited Act, fourteenth and fifteenth Victoria, chapter one hundred and twenty-eight, <sup>Sect. 11 of the
said Act re-pealed.</sup> shall be and the same is hereby repealed.

III. The Councillors of the said City of Montreal, at the periods hereinafter appointed, shall be chosen by the majority of votes of such male persons, being inhabitant householders, or owners or occupiers of dwelling-houses within the ward for which the election shall be had, as shall severally be possessed on the first day of January next preceding such election, of a dwelling-house within the ward, held by them respectively in freehold or for a term of years or for a term not less than one year, the annual value whereof, if held in freehold, shall not be less than forty shillings current money of this Province, or the rent paid therefor, if otherwise held, shall not be less than eight pounds said current money, and who, if not owners, shall have been resident within the said City, during one year or more, previous to the first day of January next before any such election, and shall have resided within the particular ward for which such election shall be had, not less than three months next before the first day of January preceding such election, and shall have been assessed under the Laws and By-laws in force on the first day of January next preceding any such election, on a sum of not less than eight pounds current money aforesaid, upon the dwelling-house so occupied ; and part of a dwelling-house in which an inhabitant shall reside as a householder or occupier, but not as a boarder or lodger, and having an outer-door by which a communication with the street may be afforded, whether the said door shall be held individually or in common with other such inhabitant or inhabitants of the said house, or part of a house, likewise resident therein as such householder or occupier, shall be considered a dwelling-house within the meaning of this enactment, provided the annual value thereof, or the rent paid therefor as aforesaid, be not less than eight pounds, and the rate of assessment thereon be on a sum not less than eight pounds current money aforesaid per annum. And every male person, though not a householder, who shall have been resident in the said City during one year next before the first day of January preceding any such election of Councillors, and who, either individually or jointly as a co-partner with any other person or persons, shall have owned or occupied

<sup>Qualification
of voters at
elections of
Councillors.</sup>

<sup>Householders
being freehold-
ers.</sup>

Tenants.

<sup>Further re-
quisites.</sup>

<sup>What shall be
a dwelling-
house.</sup>

<sup>Persons occu-
pying real pro-
perty not be-
ing a dwelling-
house.</sup>

any warehouse, counting-house or shop, within any of the said wards of the said City, during three months next preceding any such election, and shall have been assessed for not less than one year on such premises, on a sum not less than eight pounds if owned or occupied by one individual, or not less than eight pounds per share if there are two or more co-partners, shall be entitled to vote at the election of Councillors to be had in the ward in which such premises shall be situate; And provided also, that whether the said assessment be paid by the owner or proprietor of the property so assessed, or by the inhabitant householder, tenant or occupier thereof, the said inhabitant householder, tenant or occupier shall be entitled to vote in respect of his occupation of such property, or part thereof, as aforesaid, and shall not be deprived thereof in consequence of his not having paid the same; Provided he be otherwise rated, charged or assessed in respect of the Laws and By-laws in force; And provided also, that no such inhabitant householder or owner, tenant or occupier of a dwelling-house, part of a dwelling-house, warehouse, counting-house or shop, within the said City, shall be entitled to vote at any such election of Councillors, unless he shall, previous to the first day of January next before the holding of any such election, have paid the amount of all rates and assessments, and of every tax, duty or impost (drain accounts excepted,) lawfully imposed by any By-law, rule, regulation or order now in force or that hereafter may be in force in the said City of Montreal, that may be due and payable by him in the capacity aforesaid, or as owner or proprietor of other lands, lots, houses or other buildings, within the said City, either vacant or in the possession of tenants, householders or occupiers who have neglected to pay the assessment thereon, up to the first day of January next before the holding of any such election.

In what Ward
Elector shall
vote

Not to vote in
more than one.

IV. Every voter shall vote in the ward in which he is assessed, unless he be qualified to vote in more than one ward, then in the ward in which he shall reside; and each voter qualified to vote in one ward only shall vote in such ward, and each voter qualified to vote in more wards than one and resident without the limits of the City, shall declare, at least one month before the election, in which ward he wishes to vote, and in default of so doing he shall not be permitted to vote at such election; and no person shall be permitted to give more than one vote at any election.

Penalty on
persons brib-
ing or allowing
themselves to
be bribed at
any election.

V. If any person who shall have or claim to have any right to vote at any election of a Mayor or of a Councillor in the said City, shall, after the passing of this Act, ask or take any money or other reward by way of gift, loan or other device, or agree or contract for any money, gift or office, employment or other reward whatsoever, to give or forbear to give his vote in any such election, or if any person, by himself, or by any person employed by him, shall by any gift or reward, or by any promise, agreement

agreement or security for any gift or reward, corrupt or procure, or offer to corrupt or procure, any person to give or forbear to give his vote in any such election, such person so offending in any of the cases aforesaid shall for every such offence forfeit the sum of ten pounds currency, to be recovered, with full costs of suit, by any one who shall sue for the same in the Circuit Court for the Montreal Circuit, and any person offending in any of the cases aforesaid, being lawfully convicted thereof, shall for ever be disabled to vote in any election in the said City.

VI. And whereas doubts have arisen as to the true intent Recital. and meaning of that enactment of the fifteenth section of the Act last cited, whereby power is given to the Board of Revisors to correct any mistake, or supply any accidental omission made by the Assessors in the voters' lists, Be it therefore declared and further ordained and enacted, that the power so given shall not extend to the adding to, or erasing from, the said lists, or any of them, of any voter's name, unless a request be made in writing to that effect, in the manner and within the delay prescribed by the fourteenth section of the said Act: Provided, however, that nothing herein contained shall prevent the said Board from erasing from any of the said lists the name of any person that may be proved to them to be dead at the time of the revision of the said lists, or of any person whose name may have been erroneously included in any one or more lists other than the voters' list of the ward in which, according to the provisions of the twenty-fourth section of the said Act, he is alone entitled to vote; neither shall it prevent the said Board from correcting any mistake made in the Christian or first name of any voter whose name is inserted on any of the said lists, or in the spelling of the surname of any such voter, or from adding to, or removing from the said lists, any second or intermediate name or names that may have been erroneously omitted from, or added to, the name of any voter thereon; or from correcting any obviously clerical error in the name, residence, or occupation of any voter, in the said lists.

VII. And whereas it is necessary to make provisions whereby Recital. a poll or contest may be avoided in certain cases where no division of opinion exists amongst the electors, in respect of the person intended to be elected Mayor of the said City, or in respect of those intended to be elected Councillors in any or all of the wards thereof; and it is also necessary to provide, that the Candidates for any of the said offices shall be publicly known, and that none other but those named shall be or may be elected: Be it therefore enacted, that hereafter the twelfth day of February in each year, or if that be a holiday, then the next following not being a holiday, shall be and the same is hereby fixed as the nomination day for all Candidates for the offices of Mayor of the said City and of Councillors for the several wards thereof; and such Alderman or City Councillor as shall at the last previous meeting of the City Council have been

Sect. 15 of 14
& 15 V. c.
128, explained.

amending
voters' lists.

Proviso : this
shall not pre-
vent Revisors
from correct-
ing the lists in
case of death,
&c.

Nomination
day appointed
for the office
of Mayor and
Councillors,
and provision
for avoiding a
poll where
there is no
contest.

been named and appointed for that purpose, shall preside at each of the nominations of candidates for the offices of Mayor and of Councillors respectively which shall be held in the open air, that for the office of Mayor at the Bonsecours Market, and those for Councillors at such places in the several wards, to be fixed by the said Council, as that all the electors may have free access thereto; and at ten o'clock in the forenoon of the said day, the Alderman or Councillor appointed to preside at each such nomination shall proceed to the place where the same is to be held as aforesaid, and shall then and there require the electors there present to name the person or persons whom they wish to choose as Mayor, or as Councillor or Councillors, as the case may be, and any two duly qualified electors of the said City may openly and publicly address to the Alderman or Councillor presiding at the nomination for the office of Mayor, a demand or requisition that the person by them named be elected Mayor of the said City for the next ensuing term of the said office of Mayor, and in the event of there being only one such demand or requisition made as aforesaid, or that all the demands or requisitions so made shall be for one and the same person, then the Alderman or Councillor presiding shall proclaim the said person duly elected Mayor of the said City for the next ensuing term of the said office; and any two qualified electors in any ward of the said City may, on the day aforesaid, openly and publicly address to the Alderman or Councillor presiding at the nomination for the office of Councillor in such ward, a demand or requisition that the person or persons named by them be elected Councillor or Councillors for the said ward in which the said requisitionists are electors as aforesaid, and if there be only one demand or requisition made for the election of a Councillor or Councillors in any ward of the said City, or if all the requisitions made in any such ward be for the election of the same person or persons as Councillor or Councillors for the said ward, then the said Alderman or Councillor presiding shall proclaim the said party or parties named in the said requisition or requisitions (as the case may be,) duly elected Councillor or Councillors for the said ward, for the next ensuing term of the said office or offices; and each and every such election, made as aforesaid without dissent or division therein, shall be forthwith published in at least one English and one French newspaper in the said City, and the said presiding Alderman and Councillors respectively shall, in due course report the said elections to the Council of the said City. In the event of demands or requisitions being made by two or more duly qualified electors as aforesaid for the election of two or more persons as Mayor of the said City, or as Councillor or Councillors in any ward thereof, a poll shall be granted for each and every such election by the said presiding Alderman and Councillors respectively, and the said election shall be proceeded with in the manner heretofore and now done, in all cases of contested elections for the offices of Mayor of the said City, or of Councillor or Councillors in any of the wards thereof:

Proclamation
of persons
elected, and
publication of
their names.

Poll to be
granted where
there are se-
veral Candi-
dates.

thereof: Provided, however, that no person may or shall be voted for, at any such election or may or can be elected thereat, for whose election a demand or requisition shall not have been made as aforesaid on the twelfth day of February aforesaid.

VIII. It shall be lawful for the said Council, at any meeting or meetings of the said Council, composed of not less than two thirds of the members thereof, to make By-laws, which shall be binding on all persons, for the following purposes, that is to say:

1. For the preservation of peace and good order, and the suppression of vice in the said City; to restrain and prohibit all descriptions of gaming in the said City, and all playing of cards, dice or other games of chance, with or without betting, in any hotel, restaurant, tavern, inn or shop, either licensed or unlicensed in the said City; to prevent and prohibit any riot or noise, disturbance or disorderly assemblages, and to punish the perpetrators thereof; to give power and authority to enter into all groceries, grog-shops, taverns, hotels, and all other houses or places of public entertainment, whether licensed or unlicensed, in the said City, to detect and arrest on view such persons as may be found gaming, playing at cards, dice or other games of chance or in cock-fighting or dog-fighting therein, contrary to any By-laws restraining or prohibiting the same, or making, causing or creating any riot, noise, disturbance or disorder therein; to restrain and punish vagrants, mendicants, street-beggars, common prostitutes and disorderly persons; to license, regulate or prohibit exhibitions by common showmen, and shows of every kind, and the exhibitions of any natural or artificial curiosities, caravans, circusses, menageries and theatrical representations; to prohibit cock-fighting and dog-fighting, and all other cruel sports in the said City; and also to prevent horse-racing and immoderate driving or riding in the streets or highways thereof; to prohibit the flying of kites and every other game, practice or amusement in the public streets or elsewhere, having a tendency to frighten horses, or to injure or annoy persons passing in or along the highways of the City, or to endanger property; to compel all persons to remove the snow, ice and dirt from the roofs of the premises owned or occupied by them, and to punish them for not so doing; to prevent the incumbrance of the streets, side-walks, squares, lanes, alleys or highways, with carriages, carts, sleighs, sleds, wheelbarrows, boxes, lumber, timber, firewood, or any other substance or materials whatsoever; to prohibit or license or regulate the sale or pedlery of fruit, nuts, cakes, refreshments, bread, jewelry and merchandize of all kinds, in and upon or along the wharves, streets, side-walks, alleys and public squares of the City; to compel the owner or occupant of any grocery, cellar, tallow-chandlers' shop, soap-factory, tannery, stable, barn, privy, sewer, garden, field, yard, passage or lot of ground, or any other unwholesome or nauseous house or place whatsoever, to cleanse,
- Peace and
good order.
Gaming.
Riots.
Inspecting
taverns, &c.
Begging, &c.
Shows.
Cruelty.
Flying kites,
&c.
Cleaning roofs,
&c.
Incumbrance
streets, &c.
Pediery.
Certain offen-
sive trades, &c.

Dead carcasses, &c.

cleanse, remove, or abate the same, from time to time as often as may be necessary for the health, comfort and convenience of the inhabitants of the said City ; to prohibit any person from bringing, depositing or leaving within the City limits any dead body or any dead carcass, and to require the removal of the same, or of any article or thing about or liable to become unwholesome, by the owner or occupant of any premises on which the same may be ; and on his default, to authorize the removal or destruction thereof by some city officer, and to recover the expense thereof from the party or parties refusing or neglecting to remove or destroy the same ;

Prohibiting offensive Factories, &c.

2. To prohibit, if deemed necessary, the erection, use or employment in the said City of all steam engines, soap and candle, or oil or oil-cake factories, india rubber or oil-cloth factories, slaughter houses, dying establishments, and other factories or establishments wherein work, operations or processes, is or are carried on, liable or having a tendency to endanger property, or to affect or endanger the public health or safety ; and the said Council shall have power also to permit such erection, use or employment, subject to such restrictions and limitations and conditions, as the said Council may deem necessary ;

Or regulating them.

Animals running at large.

3. To restrain and regulate the keeping and running at large of cattle, horses, swine, sheep, goats, and to authorize the distaining, impounding, and sale of the same for the penalty incurred, and cost of proceedings, as well as the expense of their keeping ; to regulate and to prevent the running at large of dogs in the said City, and to authorize the destruction of all dogs running at large, contrary to any By-law of the said City ;

Dogs.

Light weight.

Bakers and bread.

4. To authorize the seizure and confiscation of grain, flour, butter, potatoes, and all other vegetables, articles and effects brought to the markets of the said City, for sale or otherwise, for or on account of deficiency in measure, weight or quality, or any other good and sufficient cause ; to regulate bakers in the said City of Montreal, and persons in their employ ; to regulate the sale, weight and quality of bread to be sold or exposed for sale in the said City, and to provide for the examination and weighing of all bread exposed for sale, and for the seizure, forfeiture and confiscation, and also the disposal after confiscation of any and all such bread so exposed for sale, contrary to the said By-laws; or that may be light or unwholesome ; and for that purpose to authorize and empower proper officers or persons to enter into bakers' shops or other places, and to stop vehicles carrying bread, for the purpose of examining and weighing the same, and to do any other act or thing needful, necessary, or that may be deemed for the public benefit and security, to carry out such purpose, or to enforce such By-laws ;

5. To authorize the granting of licenses to carters, and *Carters, &c.* owners, and drivers of public vehicles for hire, in and for the said City, and likewise for the better government of the owners and drivers thereof, and to establish rules and regulations in reference to carts, cabs, caleches, carriages, or other public vehicles for hire, in and for the said City, as well as to fix a tariff of rates and charges for the same; and to impose a fine not exceeding twenty shillings currency, or an imprisonment not exceeding ten days, or both, on any person hiring, engaging or employing carters in the said City, and neglecting or refusing to pay such carters for their services according to the rates established by such tariff;

6. To regulate, clean, repair, amend, alter, widen, contract, *Streets, highways, sewers, &c.* straighten or discontinue, the streets, squares, alleys, highways, bridges, side and cross-walks, drains and sewers, and all natural water courses in the said City; and to prevent the encumbering of the same in any manner, and to protect the same from encroachments and injury; and also to determine the course of all natural water courses passing through private property in the said City, and to regulate all matters concerning the same, whether the said water courses be covered or not; *Planting trees.* they shall also have power to direct and regulate the planting, rearing and preserving of ornamental trees, in the streets, squares and highways of the said City;

7. And whereas great inconveniences and loss have been experienced in the City of Montreal, in consequence of the sale *Sale of hay, coal, &c.* of hay, coal, peat or turf, firewood, and other woods on wharves, streets and other public places not allotted for that purpose: Be it enacted, that the said Council shall have power and authority to make and pass By-laws to regulate the sale of hay, coal, peat or turf, firewood and other woods, and the sellers thereof, and to prohibit, if deemed necessary, the sale of such hay, coal, peat or turf, firewood or other woods, in all places other than public markets or public or private wood yards, or such places as the said Council may allot or appropriate for that purpose;

8. And the said Council shall have power to fix a tariff of *Public Pounds.* fines and rates to be paid at Pounds now or hereafter to be established in the said City, in lieu of those fines and rates now paid at the same; any law or custom to the contrary notwithstanding;

9. And the said Council shall have full power and authority to pass By-laws for the better observance of the Lord's Day, *Better observ-
ance of Sun-
day.* commonly called Sunday, in the said City of Montreal, and for that purpose to prohibit the selling, vending or retailing, by store or shop keepers, pedlars, hawkers, petty chapmen, hotel keepers, tavern keepers or other persons keeping houses or places of entertainment in the said City, and all other persons, on the said Lord's Day, of goods, wares or merchandize, wines, spirits,

spirits, or other strong liquors, or the purchasing or drinking thereof, in any hotel, tavern, or house, or place of public entertainment in the said City, by any person or persons; and the said Council may by any such By-Law give power and authority to enter into all stores, shops, hotels, taverns, or other houses or places of public entertainment of any description whatsoever in the said City, for the purpose of arresting on view such parties or other persons suspected of so selling, vending or retailing, or offering or exposing for sale or of purchasing or drinking as aforesaid.

Penalties for
infraction of
By-laws.

And by any such By-law, for any of the purposes aforesaid, the said Council may impose such fines not exceeding five pounds, or such imprisonment not exceeding thirty days, or both, as they may deem necessary for enforcing the same, unless herein otherwise expressly provided.

Suspending
and revoking
licenses.

IX. The said Council shall have full power and authority to suspend or revoke all licenses granted to carters and owners, or drivers of public vehicles, in and for the said City; to ferry-men plying to and from the said City, to chimney sweeps, and generally all licenses whatsoever granted by the said Council, for any offence or cause of misconduct, or violation of any By-law relating to or concerning such persons holding any such licenses, or their trade, occupation or business in respect of the same.

Salary of Re-
corder raised.

Aldermen not
to sit in Re-
corder's Court,
but he may
appoint a Bar-
rister as his
Deputy in
case of absence,
&c.

X. For and notwithstanding any thing to the contrary contained in the said Act fourteenth and fifteenth Victoria, chapter one hundred and twenty-eight, the salary of the Recorder of the said City shall not be less than four hundred pounds currency per annum, payable monthly out of the funds of the said City; and so much of the said Act as provides that the Recorder of the said City shall be assisted in holding the Recorder's Court by one or more of the Aldermen or Councillors of the said City, or that in the absence of the Recorder, from sickness or other causes, the Mayor or one of the Aldermen or Councillors of the said City shall preside in the said Court, shall be and the same is hereby repealed; and it shall be lawful for the said Recorder, from time to time, by an instrument in writing under his hand and seal, to be deposited, filed and registered in the Office of the Clerk of the said Recorder's Court, to nominate and appoint some fit and proper person, being an Advocate of not less than five years standing at the Bar of Lower Canada, to be and act as his Deputy in the event of his illness or necessary absence from the said City, and any such nomination and appointment from time to time to revoke and again to make as circumstances may seem to him to require; and each and every person so nominated and appointed shall, for and during the period of time limited in the instrument containing his appointment, or if no period of time be therein limited, then from the date of the registration thereof as aforesaid until the revocation thereof, have,

have, hold, use, occupy, possess and enjoy, and be vested with all and every the jurisdiction, rights, powers, privileges and authority, and be bound to discharge all the duties of the Recorder for the said City, to the exclusion, for the time being, of the person so nominating and appointing him as aforesaid: Provided, nevertheless, that the said Recorder's Court shall not at any time be deemed to have been illegally held, nor shall the acts of any Deputy Recorder of the said City be deemed invalid, by reason of the absence of the Recorder not being deemed to be necessary within the meaning of this Act.

XI. Notwithstanding any thing in the said Act or in any other Act or Law to the contrary, the said Recorder's Court shall have exclusive jurisdiction in all cases of complaint against or objection to the assessment returns to be made in the said City; and it shall be the duty of the Treasurer of the said City, as soon as the Assessors thereof have deposited the assessment books for any ward of the said City in any year in his Office, to cause a notice to that effect to be published in one French and in one English newspaper in the said City, and in every issue thereof, for three weeks; and all persons who may think themselves aggrieved by any thing in the said assessment books contained, may, at any time within three weeks from the day of the date of the first publication of such notice, prepare, or cause to be prepared, a complaint thereof in writing, addressed to the said Recorder's Court, and file the same in the Office of the Clerk of the said Court, who shall from time to time give due and sufficient notice, by publication in one English and in one French newspaper in the said City, of the days and hours when the said Recorder's Court will proceed to hear and determine the merits of such complaints generally, or any class or number thereof, respectively; and any party aggrieved by any decision of the said Recorder's Court with respect to any such complaint, may appeal therefrom by summary petition to any one of the Judges of the Superior Court for Lower Canada, sitting at Montreal, presented either in Term or in vacation, within a delay of eight days from and after the rendering of such decision, and thereupon it shall be lawful for such Judge to order that certified copies of the entry or entries in the assessment book complained of by the Petitioner, and of the decision of the said Recorder's Court on his complaint thereof, together with such complaint itself, be transmitted to him, and upon receipt thereof he shall, after having heard the Petitioner either in person or by his Attorney, make such order in the premises as to law and justice may appertain.

XII. From any judgment to be rendered by the said Recorder's Court after the passing of this Act, in any cause, matter or proceeding in which the legality of any By-law of the Council of the said City of Montreal shall have been directly in issue, an Appeal shall lie to the Superior Court for Lower Canada, sitting at Montreal; and so far as circumstances and

Recorder's
Court to have
exclusive ju-
risdiction in
cases of com-
plaint of As-
sessment Re-
turns.

Mode of pro-
ceeding in
such cases.

Appeal from
decision in any
such case.

Appeal from
Recorder's
Court in cases
where legality
of By-law shall
come into
question.

the nature of the case will permit, all and every the provisions of Law and Rules of Practice regulating Appeals from the Circuit Court to the said Superior Court shall apply to such Appeals from the said Recorder's Court to the said Superior Court.

Prosecutions
in the said
Court against
joint owners
or occupants
of property.

XIII. Any one or more joint owners or occupiers of any lot, house or premises, or other real property in the said City, complained of for violation of any By-law of the said Council now or hereafter to be in force, bearing upon the said joint owners or occupiers, or upon the said lot, house or premises, or other real property in any manner whatsoever, by reason of nuisances committed thereon, or other offences of what nature soever, may be sued alone, or conjointly, in the said Recorder's Court, as may be deemed advisable, as well as the agent or agents of the said joint owners or occupiers or of any one of them; and in the suit to be instituted, it shall be sufficient to mention the name of one of the owners, occupiers or agents, with the addition of the words "and others," and the oral testimony of such ownership or occupancy, whether sole or joint, or of such agency, shall be deemed sufficient; any law, usage or custom to the contrary notwithstanding.

Evidence of
joint owner-
ship, &c.

Section 86 of
14 and 15 V.,
c. 128 repeal-
ed.

Policemen and
Constables to
apprehend on
view, loose,
idle, and disor-
derly persons.

How such per-
sons shall be
dealt with.

Punishment
of such per-
sons.

XIV. The eighty-sixth section of the said Act fourteenth and fifteenth Victoria, chapter one hundred and twenty-eight, shall be and the same is hereby repealed.

XV. It shall be lawful for any Police Officer or Constable of the said City, during the time of his being on duty, to apprehend on view, all loose, idle and disorderly persons, that is, all persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs, or whom he shall find lying, loitering or wandering either by night or by day in any field, highway, yard or other place, and all prostitutes or persons wandering by night or by day or found lodging or sleeping in any barn, shed, outhouse or other building unoccupied, or in the open air, or under a tent, cart, waggon or other vehicle, not giving a satisfactory account of themselves, and all persons causing a disturbance in the streets or highways by shouting or otherwise, and to deliver any person so apprehended into the custody of the Officer or Constable appointed under the said Act, who shall be in attendance at the nearest Police Station or Watch-house, in order that such person may be secured until he or she can be brought before the Recorder's Court of the said City, to be dealt with according to law or the provisions of this enactment, or shall give bail to such Officer or Constable for his appearance before the said Recorder's Court, the said Recorder, or the said Mayor, Alderman or Councillor, if such Officer or Constable shall think fit to take bail, in the manner prescribed by the said Act: And it shall further be lawful for the said Recorder's Court, or the said Recorder, or the said Mayor, Alderman or Councillor,

by

by whom any such loose, idle and disorderly person shall be convicted of any of the said recited offences, by confession, or by the oath of one or more credible witness or witnesses, to adjudge that such person shall pay a fine not exceeding five pounds current money of the said Province, either immediately, or within such period as may be thought fit, and be imprisoned in the common Gaol or House of Correction, at hard labor, for any time not exceeding two calendar months, or to adjudge that such person shall pay a fine of five pounds, said current money, either immediately or within such period as may be thought fit, and that in default of such payment either immediately or within the time appointed as aforesaid, such person shall be imprisoned in the said Common Gaol or House of Correction, at hard labor, for any time not exceeding two calendar months, the imprisonment, however, to cease upon payment of the fine imposed; any law, usage or custom to the contrary notwithstanding.

Imprisonment
in default of
payment.

XVI. The ninetieth section of the above cited Act, fourteenth and fifteenth Victoria, chapter one hundred and twenty-eight, shall be and the same is hereby amended with respect to that part thereof imposing fine and imprisonment; and it is hereby enacted that the said Recorder's Court shall have power and authority either to fine and imprison any person convicted before it, of having assaulted or resisted any officer or constable appointed under the said Act, in the execution of his duty, or of aiding or inciting such person so to assault or resist, as declared by the said section, or to adjudge that any such person or persons so convicted as aforesaid, shall, for every such offence, forfeit and pay such sum not exceeding five pounds, either immediately or within such time as may be thought fit, and that in default of such payment, either immediately or within the delay mentioned, such person or persons be imprisoned in the Common Gaol, or House of Correction, at hard labor, for a period not exceeding thirty days.

Sect. 90 of 14
& 15 V. c.
128 amended.

Punishment of
persons resis-
ting City Offi-
cers or Consta-
bles.

XVII. And whereas it often happens that lessees of property in the said City sub-let the same for higher rents than they pay for the same, and doubts may arise as to whether the assessment on such property should be determined upon the rent for which the same may be let, or that for which it may be sub-let; Be it enacted that in all such cases the Assessors shall determine the assessment to be made by them on such property, upon the actual *bona fide* rent thereof as agreed upon between the lessee and his sub-tenants, but the rate or tax so assessed shall, as respects the owner of such property, in the event of his being compelled to pay the same, be reduceable and be reduced to the sum it would have amounted to if it had been assessed on the actual and *bona fide* rent of such property for the year in respect of which it was assessed, as agreed upon between him and his immediate tenant: Provided always, that in all such cases the full amount, or the sum or balance necessary to

How property
shall be asses-
sed when it
has been sub-
let for a higher
rent than the
proprietor has
reserved in the
original lease.

Proviso.

complete the full amount, as the case may be, of the rate or tax so assessed, shall always be recoverable by the Corporation from the tenant or sub-tenant.

Recital of sect.
74 of 14 & 15
V. c. 128, as to
taxes for local
improvements.

XVIII. And whereas it is enacted in and by the seventy-fourth section of the said Act hereinbefore cited, fourteenth and fifteenth Victoria, chapter one hundred and twenty-eighth, that in all cases where the proprietors of the majority of the real estate in any street, square, or section of the City, that is to say, the proprietors of the larger part in value of the said real estate, according to the then assessed value thereof, may apply to the said Council for any specific local improvement in or to the said street, square or section, other than the repairing of the streets thereof, it shall be competent for the said Council to allow the same, and for the purpose of defraying and covering the cost of the said specific improvement, or any part thereof, which the said Council may determine to be borne by the parties interested in the same, the said Council is empowered to impose and levy, by By-law, a special rate, tax or assessment on all real estate, in the said street, square or section of the said City, benefited or to be benefitted by the said improvement, according to the assessed value thereof, sufficient to cover the expense of the said improvement, in whole or in part, as the said Council may decide: but no provision is made in the said section to fix and determine what real estate in the said street, square, or section of the said City, is so benefitted or to be benefitted by the said improvement, or to apportion the said special rate, tax or assessment on the said real estate, as nearly as may be in proportion to the benefits resulting, or to result from the said specific improvement: Be it therefore enacted, that in all cases where land or property may have been taken and appropriated for any specific improvement, by virtue of the said in part recited seventy-fourth section of the said Act, or where the same may hereafter be taken and appropriated by virtue thereof, the whole of the real estate in such street, square or section shall be held to have been equally benefitted by such improvement; and that so much of the said section as empowers the said Council to regulate and apply such rate, tax or assessment to and upon any such real estate to be so rated, taxed or assessed, and according and in proportion to the amount of benefit which will be conferred thereon by the said improvement, shall be and the same is hereby repealed; and the assessed value of all real estate in any such street, square or section, for the year in which any By-law is made under the said section, shall be held to be the assessed value thereof for the purposes of the said section. Sworn assessors of the said City, shall, upon view of the premises, adjudge, fix and determine the real estate in any such street, square, or section of the said City, benefitted or to be benefitted by any such specific improvement heretofore made or hereafter to be made by virtue of the said section of the said Act, on the application of the proprietors of the majority of the real estate in any such street, square, or section

How the prop-
erty benefi-
ted by any local
improvement
shall be ascer-
tained by the
Assessors.

section of the said City ; and the said assessors shall be, and they are hereby required to assess and apportion the amount thus assessed for compensation, to cover the expense of the said improvement, and all costs incurred thereby, on the said real estate benefitted or to be benefitted by the said improvement, as nearly as may be in proportion to the benefits resulting therefrom, and they shall briefly describe the real estate on which any assessment is made by them. The said assessors shall view the premises, and in their discretion receive any legal evidence, and for that purpose they are hereby authorized to administer oaths to witnesses, to require and compel their attendance before them, and to hear and examine them when present ; and any witness refusing to attend and give evidence before the said assessors, when duly summoned by them so to do, shall incur the like fine or penalty or both, to be recovered or enforced before the Recorder's Court of the said City, as for refusal to appear when duly summoned before the said Court ; and the said assessors may, if they shall deem it necessary, adjourn from day to day. They shall also before entering upon their duties, give notice to the persons interested, of the time and place of their meeting, for the purpose of viewing the premises, and making and apportioning such assessment, at least five days before the time of such meeting, by publishing such notice in at least one English and one French newspaper published in the said City. If there be any building on any land taken for such improvement, the value thereof, with a view to the removal of the said building, shall be ascertained and stated in the said assessment, and the owner thereof may remove the same within ten days, or in such other time as the said Council shall allow, after the confirmation of the report of the said assessors ; if he shall so remove such building the value thereof so ascertained shall be deducted from the amount of compensation awarded to him. The determination and assessment of the said assessors, signed by all or the majority of them, shall be returned to the said Council, within thirty days after they shall have been required to make and apportion the said assessment. The said Council after the determination and assessment of the assessors, and their apportionment of the said assessment, is returned to them, shall give two weeks' notice, in at least one English and one French newspaper, published in the said City, that the same will, on a day to be specified in such notice be confirmed, unless objections thereto, briefly stated, shall be previously filed with the City Clerk ; if no such objections are so made, the said determination and assessment, and apportionment thereof, shall be confirmed by the said Council ; if objection be made, as aforesaid, any person interested may be heard before the said Council touching the matter, on the day specified in the aforesaid notice, or on such other day as the said Council shall appoint ; and the said Council may, after hearing such persons confirm such determination and assessment, and apportionment thereof, modify the same, by reducing any part or parts, item

*Proceedings of
the Assessors
for that pur-
pose.*

*Allowance
when build-
ings are re-
moved from
property
taken.*

*Report of As-
sessors.*

*Revision by
Council after
notice.*

*Objections to
be heard.*

Council's determination to be conclusive.

item or items thereof, but the said Council shall not have power to augment any part or portion thereof; and the determination of the said Council shall be final and conclusive on all the persons interested, and a By-law may be made and passed thereon, to levy the said assessment on the properties and persons, and in the proportions so finally determined upon by the said Council.

Provision where property taken for improvements is under lease.

XIX. In all cases where the whole or any part of any real estate, subject to any lease or other agreement, shall be taken by the said Council, under the said section of the said Act, all the covenants and stipulations contained in such lease or agreement, shall, upon the final confirmation of the assessment therefor, cease, determine, and be absolutely discharged; and in all cases where a part only of any real estate, shall be so taken, the said covenants and stipulations shall be so discharged only, as to the part so taken; and the decision of the said sworn assessors shall determine the rents, payments and conditions which shall be thereafter paid and performed, under such lease or agreement, in respect to the residue of such real estate.

Certain particulars to appear on lists of voters.

XX. In the lists and certificates of voters, in the several wards of the said City, for the Mayor and Councillors of the said City, there shall hereafter be stated and set forth, at full length, the Christian and surnames of the said voters, their occupations, and the streets in which they reside in the said City or in which they have their places of business therein, whenever the right of vote arises out of the business carried on by the said voters.

Recital: sect.
17 of 14 & 15
V. c. 128.

City Clerk may administer an oath before delivering certificate of right to vote.

XXI. And whereas it is necessary to amend the seventeenth section of the said Act fourteenth and fifteenth Victoria chapter one hundred and twenty-eight, with respect to the formalities to be observed by the City Clerk, prior to the delivery to any person whose name shall be on the voters' list for any ward, of a certificate to the effect that the name of such person is on such voters' list, and that he is entitled to vote at the election to be held for Mayor of the said City, and for a Councillor or Councillors for such ward; Be it therefore enacted, that the said City Clerk or any person acting for him shall have full power and authority, whenever deemed necessary, to administer to such person requiring such certificate, the following oath or affirmation, before delivering the said certificate, viz:

The oath.

" You swear (or solemnly affirm) that you are the person named and described in the certificate claimed by, and now shewn to you, (reading to the said party, at the same time, the name, occupation, and name of the street, set forth in full, in the said certificate,) and that you are entitled to vote at the election to be held for Mayor of the City of Montreal, and for a Councillor (or Councillors, as the case may be,) for the (naming the ward) ward of the said City. So help you God."

XXII. The sixteenth section of the said Act, fourteenth and <sup>Sect. 16 of 14
& 15 V. c.
128 repealed.</sup> fifteenth Victoria, chapter one hundred and twenty-eight, shall be and the same is hereby repealed.

XXIII. The voters' lists for each ward of the said City, when settled and signed in the manner provided for in and by the said last cited Act, shall again be placed and kept in the City Hall, until after the close of the elections, and shall then be filed in the office of the City Clerk; and every person whose name shall appear in such ward list, and who shall produce a certificate in the manner provided for by the said Act, shall be entitled to vote at the election for Mayor of the said City, and for a Councillor or Councillors, as the case may be, in the ward stated in his certificate, without any further enquiry as to his qualification: Provided that it shall be lawful for the said Mayor, or for any Alderman or Councillor of the said City, or for the Recorder, or the City Clerk thereof, to administer either or both of the following oaths, marked one and two, included in this section, to any party producing any such certificate, and claiming a right to deposit the same, and vote at the said election; and it shall be compulsory on the said Mayor, Alderman and Councillors, and upon the said Recorder and City Clerk, to administer either or both of the said oaths, upon the requisition to that effect, of any Candidate at the said election, or any duly qualified voter in the said City, and likewise in all cases where doubts are or may be entertained of the identity of the party desirous of voting, of his being of the full age of twenty-one years, or of his having received or been promised any consideration for his vote; and any person required to take the said oaths, or either of them, and refusing so to do, shall be prohibited from voting, so long as he shall persist in his said refusal, and until he shall have taken the said oath or oaths.

Oath Number One.

“You swear (*or if he be one of the persons permitted by law to affirm in civil cases, you affirm*) that you are the person named and described in this certificate now shewn to you, (*reading to the said party, at the same time, the name, occupation, and name of the street set forth in full in the said certificate*); and that you have not before voted at this election. So help you God.”

Oath Number Two.

“You swear that you verily believe that you are of the full age ^{Form of oath.} of twenty-one years; and you have not already voted at this election; and that you have not received any thing, nor has any other person, to your knowledge or belief, received any thing for you or on your account or behalf, either directly or indirectly; neither has there any thing been promised to you, or to your knowledge or belief, to any other person for you, or on your behalf

“behalf or account, either directly or indirectly, in order to induce you to give your vote at this election, nor do you expect any remuneration, gift or reward, either directly or indirectly, for voting at this election. So help you God.”

False oath to
be perjury.

XXIV. Any person who shall swear or affirm falsely, upon the said prescribed oaths numbers one and two, contained in the preceding section, or either of them, being administered to him, shall be guilty of wilful and corrupt perjury, and shall be liable to all the pains and penalties of the said offence.

Auditor to take
an oath of
office.

XXV. Hereafter no Auditor, elected or appointed under the said last cited Act, shall be required to take an oath that he is holder of real or personal estate, as one of the qualifications for holding such office, but the following oath shall be administered to such Auditor by the Mayor, or any Alderman or Councillor thereof, or the City Clerk, to wit:

The oath.

“You (*name of Auditor,*) having been elected Auditor for the City of Montreal, do sincerely and solemnly swear, that you will faithfully fulfil the duties of the said office, according to the best of your judgment and ability. So help you God.”

And no other oath shall be required of such Auditor; any thing in the said Act to the contrary notwithstanding.

Sects. 19 & 24
of 14 & 15 V.
c. 128 amend-
ed.

XXVI. The nineteenth and twenty-fourth sections of the Act last cited (fourteenth and fifteenth Victoria, chapter one hundred and twenty-eight,) shall be and the same are hereby severally amended, by substituting in the said nineteenth section, the words “sixteenth section,” in place of “fifteenth section,” and in the said twenty-fourth section the words “for the particular ward” in lieu of “within the particular ward.”

Sect. 33 re-
pealed.

XXVII. The thirty-third section of the Act last cited shall be and the same is hereby repealed.

Sects. 48 & 49
amended.

Chairman in
absence of
Mayor.

XXVIII. The forty-eighth and forty-ninth sections of the said last cited Act shall be and the same are hereby amended, in so far as respects the manner of appointing a Chairman at any meeting of the said Council, in the absence of the Mayor and acting Mayor of the said City, so that the said Council shall have full power and authority hereafter, in the absence of the said Mayor and acting Mayor, to choose any Alderman or Councillor to be Chairman at any such meeting; any thing in the said sections to the contrary notwithstanding.

Sect. 56 re-
pealed.

XXIX. The fifty-sixth Section of the Act last cited, the fourteenth and fifteenth Victoria, chapter one hundred and twenty-eight, shall be and the same is hereby repealed.

XXX.

XXX. Annually between the tenth day of May and the tenth day of July, or as soon thereafter as may be found expedient by the said Council, in the present year one thousand eight hundred and fifty-five, and in each year, for two years thereafter, a special assessment not exceeding six pence in the pound of the assessed yearly value of all real property within the said City, shall be made and levied upon the owners, tenants or occupiers thereof, to be applied in defraying the expenses of the Montreal Water Works.

Special rate
for the Water
Works to be
imposed im-
mediately.

XXXI. In addition to the special assessment hereinbefore in the next preceding section of this Act, authorized to be made, and to be applied in defraying the expenses of the Montreal Water Works, it shall and may be lawful for the said Council of the said City to establish by a By-Law when and so soon as they are prepared to supply the said City or any part thereof with water, a tariff of rates for water supplied or ready to be supplied in the said City from the said Water Works, which said tariff of rates shall be payable at the times and in the manner to be established in the said By-law, by all proprietors, occupants or others supplied with water from the said works, or whom the said Council are prepared and ready to supply with water from the said works; which tariff of rates shall not however be made payable before the water is ready to be supplied to the said proprietors, occupants or others, by the said Council; the said tariff of rates shall and may be made payable by all such proprietors, occupants or others, as well by those who refuse, as by those who consent to receive into their houses, stores or other buildings, the water pipe to supply the said water; but the said tariff of rates shall not be payable by the proprietors or occupants of any such house, store or building, until after the said Council shall have notified them that they are prepared and ready to supply such house, store or building with water, and if from the time of such notification, to the next period appointed for the payment of such tariff of rates, there shall be any broken period, then such tariff of rates shall be payable *pro rata* for such broken period as if accruing day by day; Provided that the expense of introducing the said water into the said houses, stores or other buildings, shall be borne by the said Council, and the work performed by the same, but the distribution of the said water through the said houses, stores or other buildings, after being introduced into them, shall be borne by such proprietors or occupiers if required by them.

Another addi-
tional Water
Works rate,
when the
Council is
ready to supply
the water.

Payable by
all whether
they take the
water or not.

Broken period.

Proviso :
Council to
bring the wa-
ter into the
houses.

XXXII. And whereas in cases where the said Council have purchased, or taken and entered into, or may hereafter take or purchase and enter into property for the use of the Water Works of the said City, by virtue of the Act passed in the seventh year of Her Majesty's reign, intituled, *An Act to authorize the Mayor, 7 V. c. 44, and Aldermen and Citizens of Montreal to purchase, acquire and hold the property now known as the Montreal Water Works, and of the Act*

Recital of
doubts under

16 V. c. 127.

Act passed in the sixteenth year of Her Majesty's reign, intituled, *An Act to authorize the Mayor, Aldermen and citizens of the City of Montreal, to borrow a certain sum of money, and to erect therewith Water Works for the use of the said City, and to extend and amend the provisions of any Act relating thereto—*

As to power to take more land than is absolutely required for Water Works.

Matter to be determined by a Judge of the Superior Court on petition of either party, and his decision to be binding and without appeal.

doubts have been or may be raised, as to the right of the said Council to take more land than they absolutely require for the purposes of the said Water Works, or as to any other pretensions of the said Council, and the Appraisers appointed to fix and determine the price or compensation to be paid therefor, have no power or authority to decide such questions: Be it therefore enacted, that it shall be lawful for either party in any such case to present a petition to any Judge of the Superior Court for Lower Canada, sitting at Montreal, either in Term or in vacation, setting forth his pretensions in the premises; and thereupon it shall be the duty of such Judge, on proof of service of copies of such notice on the opposite party, and on the Appraisers, at least three days before the presentation thereof, to fix a delay, not exceeding eight days, for the said party to file his answer in writing to the said petition in the Office of the Prothonotary of the said Court at Montreal, and to serve a copy thereof on the Petitioner; and on proof of service on the party opposed to such Petitioner of the order fixing such delay, the said Judge shall name a further day and time for hearing the parties summarily on the questions raised; such petition and answer, or petition only, as the case may be, and notice of the order fixing such day for hearing, shall be given by the Petitioner to the opposite party on the day on which it is made; and after hearing the parties as aforesaid, or one party only if the other shall fail to appear after due notice as aforesaid, the said Judge shall make such order in the premises as to law and justice may appertain; and the Appraisers shall be bound by the decision of such Judge in the premises (from which no appeal shall lie), and shall govern themselves accordingly; and it shall be the duty of the Appraisers, upon, from and after the service upon them as aforesaid of a copy of such petition as aforesaid, to suspend all further proceedings in the case until they are served with a copy of the final order or decision of such Judge on the question submitted to him.

Inconsistent enactments repealed.

XXXIII. All the provisions of any law inconsistent with the provisions of this Act, shall be and the same are hereby repealed.

Public Act.

XXXIV. This Act shall be held and taken to be a Public Act.