

*Laws of Her Majesty's Province of United Canada*, passed in the year 1846. Montreal:  
Stewart Derbishire & George Desbarats, 1846.

9 Victoria – Chapter 21

**An Act to amend the Laws incorporating the City of Montreal, and to facilitate the decision of cases wherein the right of any party to any office in the Corporation may be called in question. 23rd May, 1846.**

Whereas it is expedient to amend the Laws incorporating the City of Montreal, and to make provision for facilitating the decision of cases in which the right of any person to hold or exercise any Office in the Corporation of the said City may be called in question: 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, That after the passing of this Act, the Court of Queen's Bench for the District of Montreal, sitting in Superior Term for the cognizance of suits and actions of a civil nature, or any two or more Justices of the said Court in vacation, shall, on the information (requête libellée) of any Citizen of the said City qualified to vote at the election of Councillor for some Ward thereof, supported by affidavit to the satisfaction of the Court or of such Justices, and complaining that any person illegally exercises, or assumes or attempts to exercise the office of Mayor, Alderman or Councillor of the said City, have full power and authority to order the person so complained of to appear before such Court or Justices, and to shew by what authority he exercises, or assumes or attempts to exercise such office; and such order shall be served (with a copy of the information) upon the party complained of, at least three days before that on which such party shall be ordered to appear; and the said Court or such Justices shall have full power and authority thereupon to try and adjudge upon the right of the person so complained of to exercise the Office in question and to make such order in the case, and to cause (if need shall be) such Writ of Mandamus or Order to be addressed to the Corporation of the Mayor, Aldermen and Citizens of Montreal, as to right and justice may appertain; and such Order or Writ shall be obeyed by the said Corporation, and by all other parties whatsoever, and from the Judgment, of the said Court or Justices in any such matter as aforesaid, there shall be no appeal; and the said Court or such Justices shall have full power to tax and award such costs against any party as in their discretion they shall deem right: Provided always, that so far as may be consistent with this Act, the forms of proceeding in any such case as aforesaid, shall be as summary as may be consistent with a due examination into the merits of the case: And provided also, that this Act shall apply to cases where the party complained of exercised, or assumed or attempted to exercise the office in question before the passing of this Act; and that any proceedings commenced in Term before the Court may be continued before two or more Justices thereof in vacation, and any proceedings commenced before such Justices in vacation may be continued before the said Court in Term: and such Justices in vacation shall have as ample power to summon, compel the attendance of, swear and examine all parties or persons whose evidence may be required, as the said Court hath in any case when sitting in Superior Term.

II. And be it enacted, That notwithstanding any thing to the contrary in the Act passed in the eighth year of Her Majesty's Reign, and 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 amending that Ordinance, and to vest certain other powers in the Corporation created by the said first mentioned Ordinance, the Clerk of the City shall preside at each election of a Mayor of the said City, and not the person who shall have been Mayor for the then last Term, although he be still a Member of the Council; and if there be no Clerk of the City, then a Councillor shall be chosen by a majority of the Councillors present to preside at the election, and such presiding Councillor shall vote as a Councillor, and if the votes be then equally divided, shall have a casting vote and so determine the election.

III. And be it enacted, That it shall be lawful for the Mayor of the said City, to appoint a day on which the Inhabitant householders and persons duly qualified to vote in the East Ward of the City, shall assemble and elect from the persons duly qualified to be Members of the Council, a person to fill the vacancy now and since the first Monday in March last past, existing in the representation of the said Ward, in the said City Council, and two fit and proper persons to be Assessors for the said Ward for the present year and until a new election for Assessors in the said Ward will be required to be held by law: And whensoever hereafter it may happen that from any cause whatsoever an election for a Member or Members of the said Council of the said City shall not take place in any Ward or Wards, of the said City at the time fixed therefor by law, or appointed therefor by the Mayor of the said City, it shall be lawful for the said Mayor, as soon thereafter as expedient, to appoint a time and place when an election or elections, in lieu and place thereof, shall be held and take place.

IV. And be it enacted, That notwithstanding any thing to the contrary in any Act or law heretofore passed, or in force in this Province, it shall not be necessary, for the assessment in the said City to be made between the tenth day of May and the tenth day of June in each year, but that the powers and authority of the Assessors elected and appointed or to be hereafter elected and appointed under and by virtue of the said Act passed in the eighth year of Her Majesty's. Reign, and 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 amending that Ordinance, and to vest certain other powers in the Corporation created by the first Ordinance, shall be and continue in force, and may be exercised for and during the period and term of their election and appointment, to wit, until the first Monday in March in the year next following their said election and appointment.

V. And be it enacted, That it shall be lawful for the said Council, at any meeting or meetings composed of not less than two-thirds of the Members thereof, to make a By-law or By-laws, which shall regulate and determine the time when the Assessors of the said City shall annually commence their duties, the manner in which they shall perform them, the period within which they shall annually make their first general return of the assessments to be levied and obtained in the said City, and the time and manner in which they may or shall correct their said return, by extending the same, and adding thereto the names of any parties omitted or who shall have

become known to the said Assessors, or shall have arrived in the said City subsequently to the making thereof, or who shall have become liable to pay any assessment, tax or duty to the said City, at any time after the said general return shall or may have been made; and in the event of any vacancy or vacancies occurring in the office of Assessor or Assessors, by the non-election of any Assessor or Assessors, at the time fixed by law therefor, or by the absence or death of any person or persons elected or appointed to that office, or by the refusal or inability of any Assessor or Assessors elected or appointed, to attend to, perform and fulfil the duty or duties which he or they are or may be bound or required by law to attend to, perform and fulfil, it shall and may be lawful for the said Council, at any quarterly or special meeting thereof, to elect, nominate and appoint one or more competent and duly qualified person or persons to fill and supply such vacancy or vacancies.

VI. And be it enacted, That this Act shall be a public Act, and as such shall be judicially noticed by all Judges, Justices and other persons whomsoever, without being specially pleaded.