

Laws of Her Majesty's Province of United Canada, passed in the year 1851. Quebec: Stewart Derbishire and George Desbarts, 1852.

16 Victoria – Chapter 127

An Act to authorize the Major, 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. Assented to 23rd May, 1853.

Whereas the present supply of water for the City of Montreal, and the mode adopted for supplying the same, have been found to be insufficient; And whereas it is necessary greatly to increase that supply; And whereas the Mayor, Aldermen and Citizens of the said City of Montreal by their Petition have prayed that powers be granted them for that purpose: 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 all and every the powers, privileges and authority of the Corporation of the said City of Montreal under the Act of the Parliament of this Province passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to authorize the Mayor, Aldermen and Citizens of Montreal to purchase, acquire and hold the property now known as the Montreal Water Works*, shall, in so far as the same apply to the construction and extension of Water Works in the City of Montreal and the parts adjacent thereto, be and belong to the said Corporation for the erection and construction of the Water Works constructed or erected, or intended so to be, under this Act; and all and every the clauses of the said Act shall be held to be a portion of this Act, in every particular thereof not inconsistent with the provisions hereof.

II. And be it enacted, That for the purpose of establishing the said Water Works as aforesaid, it shall and may be lawful for the said Corporation to borrow a sum not exceeding One Hundred and Fifty Thousand Pounds sterling money of Great Britain, before or after the completion of the said Water Works, and to issue under the hand of the Mayor and the seal of the said Corporation, Debentures or Corporation Bonds, to the said amount of One Hundred and Fifty Thousand Pounds sterling, aforesaid, payable on or before the first day of November, in the year of our Lord, one thousand eight hundred and seventy-eight, and bearing interest, payable semi-annually, on the first days of November and May in each and every year, and at a rate not exceeding six per centum per annum; and all such Debentures may be in any form not inconsistent with this Act, and may have Coupons thereunto annexed for the half yearly interest thereon, which Coupons being signed by the Mayor or Treasurer of the Corporation, shall be respectively payable to the bearer thereof, when the half yearly interest therein mentioned becomes due, and shall, on payment thereof, be delivered up to the Corporation; and the possession of any such Coupon by the Corporation shall be *primâ facie* evidence that the half year's interest therein mentioned has been paid according to the tenor of such Debenture; and all the provisions of this Section shall apply as well to the Debentures heretofore issued as to those to be issued after the passing of this

Act; and all such Debentures, and as well the interest as the principal thereof, are and shall be secured on the General Funds of the said Corporation, as well as by the special privilege on the Water Works mentioned in the fifteenth Section of the Act above cited, which said privileges shall nevertheless only rank in order next after the privilege secured to the holders of Bonds issued under the provisions of the said Act, passed in the seventh year of Her Majesty's Reign, or of any Act or provision of law in amendment thereof.

III. And be it enacted, That any sums which the said Corporation is empowered to borrow under this Act, may be borrowed either in this Province or elsewhere, and the principal sum and interest thereon as aforesaid may be made payable either in this Province or elsewhere, and either in the Currency of Canada, or in that of the place where the same shall be payable, and generally all the provisions of the Acts now in force as to Debentures issued by the said Corporation shall apply to those to be issued under this Act, except only in so far as they may be inconsistent with this Act.

IV. And be it enacted, That the said Water Works to be erected and constructed under this Act, and also the land to be acquired for the purposes thereof, and every matter and thing therewith connected, shall be and they are hereby specially charged, pledged, mortgaged and hypothecated for the repayment of any sum or sums which may be borrowed by the said Corporation for the purposes of this Act, as well as for the due and punctual payment of the interest thereupon; and all each and every of the holders of the Debentures in the last previous Section mentioned shall have a concurrent pledge, mortgage, hypothec or privilege on the said Water Works and property appertaining thereto for securing the payment of the said Debentures and the interest thereon.

V. And be it enacted, That the said Corporation shall have power to sell, alienate, lease, and convey all or any parts of the existing Water Works and property appurtenant thereto or connected therewith, and to let and lease for life or for years, or for any number of years, any water privileges or ground therefor, belonging or appertaining to the said Corporation or which may be acquired by the said Corporation for the purposes of the said Water Works, upon such terms and conditions as to the said Corporation may appear just and expedient.

VI. And be it enacted, That for and notwithstanding any thing to the contrary contained in the fifth or any other section of the said Act passed in the seventh year of Her Majesty's Reign, and incorporated with this Act as aforesaid, the price or compensation to be paid by the said Corporation for or in respect of any real property to be taken or entered into by them in pursuance of the said Act or of this Act, not being within the limits of the said City, shall be ascertained, fixed and determined not by a jury, as provided by the sixty-eighth section of the Act passed in the session held in the fourteenth and fifteenth years of Her Majesty's Reign, 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*, but by appraisers to be indifferently chosen, in manner following, to wit, one by the said Corporation, another by the said person or party, and a third or umpire, only in case of difference of opinion between them, by the said two others; and in case of the person or party neglecting to choose and appoint an appraiser within four days after notice in writing to that effect served upon him by or on behalf of the said

Corporation, or in case of the appraisers chosen and appointed not agreeing upon the nomination of such third or umpire, an appraiser for such party or such third shall be appointed by any of the Judges of the Superior Court residing at Montreal; and the said appraisers and third or umpire shall be sworn before such Judge before their operation, which shall be conducted in the manner provided by the law of Lower Canada for proceedings by *experts*; and they shall hear any witnesses who may be brought before them in relation to the matter of the said appraisalment, the said witnesses first sworn before a Judge or a Commissioner for taking affidavits, or before any one of the said appraisers; and the decision of the said two appraisers if they shall agree, or of any one of the said appraisers and the umpire shall be conclusive, notwithstanding any want or defect of form in their proceedings.

VII. And be it enacted, That the said Corporation shall have power to extend all or any of their works for the said Water Works, to a distance not more than thirty miles from the limits of the City of Montreal; and all and every the provisions of law under the said Act in the first section of this Act mentioned, shall apply to the said extension, save and except as is herein and hereby expressly excepted.

VIII. And be it enacted, That if the said Corporation shall conduct the water for the supply of the said City and parts adjacent thereto, under this Act, by or through a Canal, the said Corporation shall have the power to lay out a road on either or both sides of the said Canal, and upon the land by them, acquired for the purposes thereof, of such width as the said Corporation shall deem expedient for public use or for the agricultural purposes of the proprietors through whose lands the said Canal shall pass; and the Corporation shall, at their own expense, construct and maintain a good and sufficient farm bridge with a hand rail on each side thereof across the said Canal, opposite, or as nearly so as possible, to the centre of the width of each farm divided in its length by the said Canal, unless it shall be otherwise agreed upon in any case between them and the proprietor of any such farm.

IX. And be it enacted, That it shall be lawful for the said Corporation to purchase and acquire, take and hold with the consent of the proprietor or other person having the right to sell or dispose of any real or immoveable property intersected or divided by the line of the said Canal the real portions of such property separated by the said Canal from the residue thereof, as shall not be necessary for the purposes of the said Water Works; and it shall be lawful for the said Corporation thereafter to sell the same for the benefit of the said Water Works in the manner hereinafter mentioned.

X. And be it enacted, That the said Corporation shall construct and maintain, at their own expense, good and sufficient fences and ditches on each side of the land acquired by them for the purposes of the said Canal, and along the lines of division between the same and the properties on either side thereof.

XI. And be it enacted, That it shall be lawful for the said Corporation, and they are hereby authorized, to dredge, widen, deepen, and otherwise improve the little River, Brook or Stream known as the River St. Pierre from the place where it may be reached, crossed or intersected by

the said Canal to its mouth, in such way and to such extent as may be necessary to adapt it to the reception and discharge of the waste or surplus water or drainage and leakage from the said Canal or to make a new tail-race or discharge apart from the said little river; and for any such purpose, as well as for the purpose of making all such and so many catchwater and off take drains as may be found necessary in connection with the said Canal, or for the purpose of diverting the drainage thereof or therefrom in other directions, by themselves, their deputies, agents, workmen and servants, at any time to enter into and upon and pass and repass over, across and along any lands and premises within the said distance of thirty miles from the said City, doing as little damage as possible and paying to the owner or other occupier thereof, or person interested therein, such compensation as may be agreed upon or as may be awarded in that behalf by appraisers chosen and appointed for the purpose of ascertaining, fixing and determining the same in the manner hereinbefore provided.

XII. And be it enacted, That it shall not be lawful for the said Corporation to sell or lease any real or immoveable property under this Act otherwise than by public auction, to be held at some certain time and place within the said City, of which at least fifteen days' public notice shall be given, by advertisement in at least one newspaper published in the said City in the English language, and in at least one other newspaper published in the said City in the French language, which said advertisement shall be published at least six times in each of the said newspapers during the said period of fifteen days.

XIII. And be it enacted, That this Act shall be held to be a Public Act.