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No. 207.

3d Session, 3d Parliament, 13th and 14th Victoria, 1850.

BILL.

An Act to amend the provisions of the Act 8 Vict., Cap. 59, 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.*"

Received and Read first time, Tuesday, 23rd July, 1850.

Second Reading, Thursday, 25th July, 1850.

MR. HOLMES.

TORONTO : PRINTED BY LOVELL AND GIBSON.

207

BILL.

An Act to amend the provisions of the Act, 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.*”

- WHEREAS it is expedient to repeal in part and to
amend the provisions contained in a certain Act of
the Legislature of this Province, 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,*” and to vest certain
other powers in the Corporation of the Mayor, Aldermen
and Citizens of the City of Montreal, and to remove
certain doubts which have arisen as to the true intent
and meaning of certain clauses of the said Act: Be it
therefore enacted, &c.
- 15 That the tenth section of the Act cited in the Preamble
to this Act, shall be and the same is hereby amended,
so that in all cases of the inhabitants in any Ward
holding a dwelling house, or part thereof, in the manner
stated in the said section, as tenants or occupiers thereof,
for a term not less than one year, the annual rent
whereof shall not be less than Eight Pounds, current
money of the said Province, when the assessment on
the said dwelling house, or part of a dwelling house, so
held as aforesaid, shall be paid before the first day of
January next preceding the election, whether the said pay-
ment be made by the proprietor or by the tenant or
occupier, or by any other person on behalf of either of
them, the said tenant or occupier shall be entitled to
vote in respect of his occupation of such dwelling house,
or part thereof as aforesaid, even though he be not at
all rated or assessed in respect of the Laws or By-laws
in force in the City of Montreal, or only rated or assessed
in respect to the said dwelling house, or part of a
dwelling house aforesaid: Provided that if the said
tenant or occupier be otherwise rated or assessed in
respect to the said Laws or By-laws, nothing herein
contained shall entitle him to vote at the said election,
unless as provided in and by the said tenth section of
the said Act, he shall, on or before the first day of
- Preamble.
8 Vic. c. 59, cited
10th Section of
above Act amen-
ded.
Proviso.

January next preceding the election, have paid all rates and assessments so due and payable by him within the said City.

9 Vic. c. 43 cited.

Further provision made for election of councillors and assessors.

Proviso.

Council may adjourn from time to time from quarterly and special meetings.

II. And whereas no provision has been made in the said Act, or in the Act passed in the ninth year of, the 5
Reign of Her Majesty, intituled, "*An Act to amend an Act therein mentioned, and to make better provision for the election of Councillors and Assessors of and for the City of Montreal,*" for elections without contest or by acclamation: Be it enacted, that 10
at each election of a Councillor or Councillors, Assessor or Assessors hereafter, the chief election officer and the assistant election officer or officers, as the case may be, shall attend at the principal polling place, in the Ward in which such election shall be held, at the time pre- 15
scribed for the said election, and if up to the hour of half-past nine o'clock in the forenoon, but one person or candidate be proposed for either office of Councillor or Assessor, then that such person or candidate be declared, and returned by the said Chief Returning Officer, duly 20
elected by acclamation, but if at any time before the said hour of half-past nine o'clock in the forenoon a second or other person or candidate, or more, be proposed for the said offices, or either of them, then that the said Assistant Election Officer or Officers, do there- 25
upon proceed to their respective polling places, and that the said election be proceeded with and carried on by all parties, in the manner prescribed by law: Provided that the said poll being once opened shall in all cases continue open till five o'clock in the afternoon of the 30
same day; and that no person shall be allowed to propose a person or candidate for either of the said offices of Councillor or Assessor, or to second the nomination of any such, unless he be a duly qualified elector in the Ward for which the said election is to be held. 35

III. And be it enacted, That at any quarterly or special Meeting of the said Council of the said City of Montreal, when the business before the meeting cannot be gone through with, or be fully disposed of, it shall be competent to the said Council to adjourn the said meeting 40
from time to time and as often as may be necessary or be thought expedient by the said Council, for the consideration and disposal of the said unfinished business; but that no new business shall be brought before, or be considered at, any such adjourned meeting, or any other 45
subject or business than the unfinished business of the previous meeting: that it shall not be necessary to give notice of any such adjourned meeting to any members present at the time of the adjournment of the said Council, but that notice thereof and of the unfinished business 50
to be considered and transacted thereat, be given in all

possible cases, to the members of the said Council not present at the said adjournment; and for that purpose that except in cases of great emergency no adjourned meeting be held within less than hours delay, from the time 5 of the adjournment of the preceding meeting.

IV. And whereas doubts have arisen as to the true intent and meaning of that enactment of the first section of the Act cited in the Preamble to this Act, whereby authority is given to the said Corporation of the Mayor, 10 *Aldermen and Citizens of the City of Montreal* to grant Bonds for the payment or securing of the payment of any money borrowed, or the performance or securing the performances of any other duty, matter, or thing whatsoever, Be it enacted, that for the said purposes, and especially 15 for the payment or securing the payment of any money borrowed, for the purpose of paying loans already made, or debts now owing by the said Corporation, or of taking up bonds that may be due or may hereafter become due, or for the purpose of making a new loan or loans, to 20 the extent prescribed by the forty-ninth Section of the said Act, or for any other legitimate and sufficient purpose whatsoever, the said Council may grant and issue Bonds for the sum or sums of money therein to be specified, payable at such time and times after the granting 25 and issuing thereof, and in such place or places in this Province, in the United States of America, in any part of Great Britain, or elsewhere, as by the said Council may be thought advantageous or expedient.

Doubts respecting granting bonds removed.

V. And be it enacted, That in all cases where the 30 proprietors of the majority, that is to say, the larger part in value of the real estate in any street, square or section of the City 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, 35 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 hereby 40 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 City benefited, or to be benefited by the said improvement, sufficient to cover the expense thereof, in whole or in part, as the said Council may 45 decide, which said rate, tax or assessment, it shall also be in the power of the said Council, if the said Council see fit, to regulate and apply to and upon, each property to be rated, taxed or assessed, and according and in proportion to the amount of benefit which will be con- 50 ferred thereon by the said improvement.

As to parties applying for any specific local improvement in any street.

By-laws may be made by Council for further purposes.

- VI. And be it enacted, That in addition to the subjects matters and things, for and with regard to which the said Council are, by the said Act 8, Vic., cap. 59, authorized and empowered to make By-laws, it shall be lawful for the said Council, at any meeting or meetings thereof 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:—

Proviso.

To prohibit the opening, making or extending of any street, lane or roadway, either public or private, within the said City, unless the same be opened, made or extended, at a width of at least forty feet in measure. Provided however that lanes made in rear of lots solely for the purpose of communicating with the out-buildings and yards on such lots be specially exempted from the operation of such By-law.

Occupants of unfenced lots to fence in the same.

To compel the occupants of unfenced lots of land in the said City, or of land therein having stagnant or filthy water in or upon it, or of land in the said City that is in any other way offensive or dangerous to the public health, and the Agents of the Proprietors of all such lands, and all persons having or assuming the charge of any such land, in the absence from the said City of the Proprietors of the said land, or in case the said Proprietors may not be able to be found, to properly fence in the said land within such delay and with fences of such height and of such material as the said Council may direct, and to drain off all stagnant water from the said land, or any water thereon that may be otherwise offensive or dangerous, to remove therefrom all filthy and offensive matters or things, and to fill up and properly level the same. And if there be no persons in occupation of the said land, and no Agent or other person representing the Proprietors of any such land in the said City, their Agents, or the occupiers of the said land or other persons in charge of the said land or assuming charge thereof, refuse or neglect to fence in as aforesaid, to drain, cleanse, fill up and level the same, when so directed by the said Council, or the proper officer thereof, or should the said Proprietors, Agents, Occupants, or other persons be unable for want of means or any other cause whatsoever so to fence in, drain, cleanse, fill up and level the said land when so directed as aforesaid, then and in all such cases it may be competent to the said Council, and the said Council is hereby authorized and empowered to have the same done at the cost and expense of the said Proprietors of the said land, and to acquire thereby a special mortgage on the said land for the amount or sum of money so expended on the same.

Board of Health.

To confer upon and to convey to, the Board of Health

authorized to be established by the fiftieth section of the said Act in the Preamble to this Act mentioned; all the privileges, power and authority in relation to the duties of the said Board, and all orders to be made and all things to be done by the said Board, as are possessed by the said Council, and the said Council is itself invested with.

To prohibit interments within the limits of the said City, or any particular section thereof, or within any particular burying ground, vault or other place therein: to compel the taking up or the removal and re-interment out of, and beyond the said City, of any Body interred within the said limits contrary to such prohibition.

To establish as many Pounds and in as many different places in the said City of Montreal, as may be deemed expedient for the impounding of horses, horned cattle, sheep, goats and hogs which may be found astray and impounded according to law.

To compel and require that all kinds of live stock and all kinds of provision and provender whatsoever, usually bought and sold in public markets that may hereafter be brought to the said City for sale, shall be taken to the public markets of the said City and there exposed, and that neither the said live stock nor the said provisions or provender, shall be offered or exposed for sale or be sold or purchased elsewhere in the said City, than on the said public markets thereof without the special license and permission of the said Council.

To impose a duty on all private marts in the said City, or that may hereafter be established therein, for the sale of cattle, provisions or provender or of any thing else whatsoever, that is usually sold in public markets, with power to regulate and fix the said duty as regards each particular mart, as the said Council may see fit.

To prohibit and prevent the construction or erection of any wooden building of any kind or description whatsoever, or the covering of any building of any kind whatsoever with shingles, or wooden materials of any description whatsoever, in or within the distance of one hundred feet, from any of the following streets, in the said City, to wit: St. Mary, St. Lewis, St. Denis, St. Lawrence, St. Antoine, St. Joseph, Wellington, McGill and Craig streets.

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 exceed-

ing thirty days, or both, as they may deem necessary for enforcing the same.

Provision as to non-payment of assessment on absentee property.

VII. And be it enacted, That all the provisions of the fortieth section of the Act cited in the Preamble to this Act, relating to the non-payment of assessment on the property of absentees, the percentage therein provided to accrue on all arrears of such assessment; the sale of said property for the assessment due thereon, the authority therein granted to the Sheriff to sell and dispose of the said property in the manner and form therein prescribed; and the manner in which the proceeds of the said sales shall be disposed of, shall be and the same are hereby extended and made to apply to all cases of non-payment of the assessment on real property within the said City, whether the Proprietor thereof be present or absent; and it is in consequence hereby enacted that in all cases of real property in the said City liable to assessment, whether the owners thereof be resident in the said City or not, when the assessment thereon is omitted, neglected or refused to be paid, the increase of ten per cent on the amount thereof, shall annually accrue thereon, as provided in and by the said fortieth section of the said Act;—the said property or any sufficient part thereof, shall be liable to be sold in the manner therein provided; and the monies levied from the sale thereof shall be returned into Court by the said Sheriff, and any balance or amount thereof remaining in the hands of the said Sheriff shall be by him paid over, within the delay, and in the manner prescribed, in and by the said section, and the provisions and requirements of the said section shall in all other matters apply and be enforced against the property and for the arrears of assessment thereon, owing by residents within the said City, as the same would and do apply, and may be enforced against the property and for the arrears of absentees.

Debts of corporation to be privileged.

VIII. And be it enacted, That all debts, that shall become due to the said Corporation for duty on business, or for any rate, tax or impost, levied under and by virtue of any By-law of the said Council, shall be privileged debts, and shall be paid in preference to all other debts, excepting debts due to Her Majesty, and shall in the distribution of the proceeds of property, whether real or personal, of any person liable to pay any such debts, be so held, considered and adjudged by all Courts of Justice, and by all Commissioners or other persons having, or who may hereafter have, jurisdiction in Bankruptcy in Lower Canada, in the same manner as is provided in relation to debts due for any rate or assessment on any real or personal property by the seventy-fourth section of the said Act cited in the Preamble to this Act; And be it enacted also, that the time provided for the said privilege,

limited to two years in and by the said last mentioned section of the said Act, be and the same is hereby extended to five years, that is to say, for the current year when any such claim may be made and for the five years next preceding that year.

IX. And whereas doubts have arisen as to the true intent and meaning of certain parts of the fiftieth section of the said Act cited in the Preamble to this Act, and Inspectors of Pot and Pearl Ashes and others have questioned the authority of the said Council to impose a duty on the business, trade or art, carried on by them in the said City, because they were not specially mentioned in the said section, be it therefore declared and enacted, that the said Council may and they are hereby authorized to impose a duty or duties on all Inspectors of Pot and Pearl ashes, and all other occupations, business, arts, trades or professions carried on or exercised in the said City, and the persons carrying on, or exercising the same.

Meaning of 5th section 8 Vic. c. 39 explained.

X. And be it enacted, That the said Council shall have full power and authority to purchase property, to wit: real estate, in the said City of Montreal, and also without and beyond the limits thereof, if deemed expedient so to do, for any purpose whatsoever, having for object to promote or preserve the public health, and especially for the purpose of establishing a public cemetery or cemeteries in or near the said City, for the use and benefit of its inhabitants and the inhabitants in the environs of the said City.

Council may purchase property for public cemetery.

XI. And whereas many cases arise of enquiries into facts before the said Council, as well as before Committees thereof when the interests of justice would be promoted, if the witnesses brought forward could be examined on oath, and power were given to the said Council and Committees to compel the attendance of witnesses before them: Be it therefore enacted, that upon any enquiry or investigation being entered into before the said Council or any Committee thereof, other than those already provided for by law, it shall be lawful for the Mayor of the said City, or other person representing him, to issue his summons requiring any person to appear before the said Council, or any Committee thereof as aforesaid, for the purpose of giving evidence touching the said enquiry or investigation, and if any person so summoned shall neglect or refuse to appear at the time and place appointed by such summons, and no reasonable excuse for his absence shall be proved before the said Council or Committee, or if any person appearing in obedience to such summons, shall refuse to be examined on oath touching the said enquiry or investigation, every person

Witnesses summoned before council on enquiries into facts may be examined on oath

so offending, shall on conviction thereof, before the Mayor's Court of the said City of Montreal, forfeit and pay such sum of money not exceeding *five pounds*, and be liable to such imprisonment not exceeding thirty days, as to the said Mayor's Court shall seem meet; and any person who shall wilfully and corruptly give false evidence upon any such enquiry or investigation shall be deemed guilty of wilful and corrupt perjury, and shall be liable to all the penalties of the said offence. 5

Provision as to
summoning of
jurors.

XII. And be it enacted, That in all cases where it may be necessary to summon a Jury, under the provisions of the said Act, cited in the preamble to this Act, to determine the price or compensation which shall be deemed reasonable to be paid for land or real estate required by the said Corporation, as well as in all other cases of a like nature wherein the said Corporation is a party, in which it may be necessary to summon a Jury, the Jurors shall not as heretofore be taken irregularly from the list of persons qualified to be Special Jurors in civil cases; but a sufficient list of Jurors shall be made out in the order in which the names may stand on the said general list of persons qualified to be Special Jurors in civil cases, beginning therein from when the names have been last taken for a trial by Jury: and the Jury or Panel of Jurors to determine the price or compensation of the land, or other fact in which the said Corporation is interested shall be selected or struck from the said list of Jurors so made or taken from the said general list as aforesaid, in the same way that Panels of Specials Jurors are now selected or struck for the trial of any issue between individuals in civil cases: and Juries empanelled to determine as aforesaid the price or compensation to be paid for real estate required by the Corporation are hereby required not to award, in the manner heretofore done, the actual and abstract value of the property taken or to be taken by the said Corporation, but on the contrary to determine and award what may be the damage to, or deterioration in value (if any) of the residue of the property, by the separation from it of the part required by the said Corporation, and the application of the said part to the purposes or improvement for which the same is so required: and when no damage may be occasioned to the residue of the said property by the said separation from it of the part required as aforesaid or when on the contrary the said residue of property is increased in value by the improvement, then that the said Jury do not award any price or compensation for the part so required, taken or to be taken by the said Corporation, as aforesaid. 10 15 20 25 30 35 40 45 50

Additional powers granted to Mayor's Court.

XIII. And be it enacted, That in addition to the authority and powers conferred on the Mayor's Court of the said

City of Montreal, in and by the said Act cited in the Preamble to this Act, the said Mayor's Court, shall in all cases possess the like powers and have the like jurisdiction, as to crimes, offences and misdemeanors, and also as to loose, idle and disorderly persons; and persons over-loading, over-driving, or otherwise ill-treating any horse, dog or other animal, and all other persons offending against any of the provisions of an Ordinance of the Legislature of the Province of Lower Canada passed in the second year of Her Majesty's Reign and intituled *"An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal"* as the Inspectors or Superintendents of Police appointed under the said Ordinance, or any Justices of the Peace in the said City of Montreal in Weekly Sessions or otherwise, now have or may hereafter have; and that it shall and may be lawful hereafter, for the Police or Constabulary Force established under the provisions of the said Act, or for any other Peace Officer or Constable, to bring before the said Mayor's Court or before the said Mayor, or any Alderman or Councillor of the said City of Montreal, being a Justice of the Peace in and for the said City, in the City Hall of the said City, all vagrants, loose, idle and disorderly persons, and all persons arrested as such, and all persons arrested for over-loading, over-driving or otherwise ill-treating any horse, dog or other animal, and all persons offending against any of the provisions or enactments of the said last mentioned Ordinance, to be then and there dealt with, according to law and the requirements of the said Ordinance, as the said Mayor's Court, the said Mayor, or any Alderman or Councillor of the said City, qualified to adjudge in the matter, may determine; That the Mayor's Court may assemble in the said City Hall daily, and as often as may be necessary, and without previous notice or time fixed, to hear and determine upon the cases of vagrants, loose, idle and disorderly persons and other offenders arrested by and in charge of the said Police, the cases of persons arrested on view or immediately after the commission of any offence or by warrant issued out of the said Court or by any Justice of the Peace for the said City of Montreal.

² Vic. (1) c. 2.

XIV. And be it enacted, That it shall be lawful for the said Mayor's Court to impose a fine not exceeding Five Pounds, together with the imprisonment already provided by the Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal, against all persons convicted before the said Court of being vagrants, or of being loose, idle or disorderly persons within the meaning of the said Ordinance; and that all fines or penalties and all costs imposed and levied by the judgments thereof, or the judgments of the said Mayor, or of any Alderman or Councillor as aforesaid, be the

A fine may be imposed on vagrants, &c.

property of the said Council, and as such from time to time and as often as directed, be accounted for and paid over to the Treasurer of the said City of Montreal.

Additional power
now given to
Police.

XV. That in addition to the powers and authority conferred by the said Act cited in the Preamble to this Act, on the Constabulary Force of the said City, established under and by virtue of the said Act, it shall and may be lawful for any Officer or Constable of the said Force, by day as well as by night, to arrest on view any person offending any of the By-laws, rules and regulations, of the said City of Montreal, or of the Council thereof, the violation of which is punishable with imprisonment; and it may and shall be lawful also for any such Officer or Constable to arrest any such offender against any By-law, rule or regulation as aforesaid, punishable with imprisonment immediately or very soon after the commission of the offence, upon good and satisfactory information given as to the nature of the offence, and the parties by whom committed; and all persons so summarily arrested shall be forthwith conveyed to the City Hall for trial, before the said Mayor's Court, if then sitting, or if the said Mayor's Court can be soon thereafter assembled, or if not, that bail or recognizance may be taken by the said Mayor, or any Alderman or Councillor of the said City, that the said parties shall appear before the next sitting of the said Mayor's Court, to answer the charge or plaint preferred against them, and for which they may have been so arrested as aforesaid; and every recognizance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof before the said Mayor's Court as recognizances taken before a Justice of the Peace, and estreated before the General or Quarter Sessions of the Peace for the said District of Montreal; Provided that nothing herein contained shall prevent the persons so summarily arrested as aforesaid, from being at once examined and tried, when taken to the City Hall as aforesaid, before the said Mayor, or any Alderman or Councillor of the said City, if the offence for which the said parties have been so arrested as aforesaid may legally be tried by the said Mayor, or any Alderman or Councillor as aforesaid, being a Justice of the Peace of the said City of Montreal, under the provisions of the said last mentioned Ordinance, or any other Ordinance or Act now in force in the said Province.

Proviso.

Additional penalty
now imposed on
persons assaulting
constables, &c.

XVI. And be it enacted, That in addition to the fine or forfeiture of a sum of money not exceeding Five Pounds, imposed in and by the sixty-ninth section of the said Act, cited in the Preamble to this Act, against any person assaulting or resisting any Officer or Constable appointed under the said Act in the execution of his

duty, or aiding or inciting any person, so to do, any and every person so offending as aforesaid shall, moreover, on conviction before the said Mayor's Court, or before any two Justices of the Peace, be liable to an imprisonment not exceeding thirty days for every such offence, at the option of the said Court or Justices of the Peace as aforesaid.

XVII. And whereas, so much of the seventieth section of the said Act as provides that all precepts, writs and processes issued out of the said Mayor's Court of the said City of Montreal, shall be signed by the said Mayor and countersigned by the City Clerk of the said City has been found inconvenient in practice, Be it therefore enacted, That hereafter it shall not be necessary that the said precepts, writs and processes be signed by the said Mayor, but that the same be signed by the said City Clerk; and all precepts, writs and processes, issued out of the said Court and signed as aforesaid by the said City Clerk, shall be as valid and shall have the same force and effect as those heretofore signed by the said Mayor and countersigned by the said City Clerk.

Writs need only be signed by clerk.

XVIII. And be it enacted, That so much of the nineteenth section of the said Act cited in the Preamble to this Act, as enjoins that Assessors shall value vacant and unoccupied lots of land within the limits of the said City only to the extent of one hundred feet in depth from the line of the streets on which the same shall fence or border, shall be and the same is hereby repealed; and henceforth Assessors shall be and they are hereby required, in making their assessment of the said City or any part thereof, to estimate all such vacant and unoccupied lots, in all their depth, to their whole extent and at their full value and as provided in and by the said nineteenth section of the said Act, they shall make their assessment on the interest of the said valuation, and not upon any presumed or imaginary revenue derived from the said vacant lots.

Part of 19th section 8 Vic. c. 59, repealed.

XIX. And be it enacted, That this Act shall be held and taken to be a Public Act.

Public Act.