

14. 1932

No. 45 of 1931.

In the Privy Council.

ON APPEAL
FROM THE COURT OF KING'S BENCH FOR THE PROVINCE
OF QUEBEC
(Appeal Side).

BETWEEN:—

MONTREAL LIGHT, HEAT & POWER
CONSOLIDATED (*Defendant*) and THE
MONTREAL LIGHT, HEAT & POWER
COMPANY - - (*Mis-en-cause*) *Appellants*

— AND —

THE CITY OF OUTREMONT (*Plaintiff*)
Respondent.

JOINT APPENDIX.

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JOINT APPENDIX.

No. 1.

CIVIL CODE.

No. 1.
Civil Code

“10. Every act is public unless declared to be private.

All persons are bound to take cognizance of public acts; but
20 private acts must be pleaded.”

“12. When a law is doubtful or ambiguous, it is to be inter-
preted so as to fulfil the intention of the legislature, and to attain
the object for which it was passed.

The preamble which forms part of the act, assists in explaining
it.”

“374. All property, incorporeal as well as corporeal, is
moveable or immoveable.”

"375. Property is immoveable either by its nature, or by its destination, or by reason of the object to which it is attached, or lastly by determination of law."

"376. Lands and buildings are immoveable by their nature."

"377. Windmills and water-mills, built on piles and forming part of the buildings, are also immoveable by their nature when they are constructed for a permanency."

"378. Crops uncut and fruits unplucked are also immoveable.

According as grain is cut and as fruit is plucked, they become moveable in so far as regards the portion cut or plucked. The same 10 rule applies to trees; they are immoveable so long as they are attached to the ground by their roots and they become moveable as soon as they are felled."

"379. Moveable things which a proprietor has placed on his real property for a permanency or which he has incorporated therewith, are immoveable by their destination so long as they remain there.

Thus, within these restrictions, the following and other like objects are immoveable:

1. Presses, boilers, stills, vats and tuns; 20
2. All utensils necessary for working forges, paper-mills and other manufactories.

Manure, and the straw and other substances intended for manure, are likewise immoveable by destination."

"380. Those things are considered as being attached for a permanency which are placed by the proprietor and fastened with iron and nails, imbedded in plaster, lime or cement, or which cannot be removed without breakage, or without destroying or deteriorating that part of the property to which they are attached.

Mirrors, pictures and other ornaments are considered to have 30 been placed permanently when without them the part of the room they cover would remain incomplete or imperfect."

"381. Rights of emphyteusis, of usufruct of immoveable things, of use and habitation, the right to cut timber perpetually or for a limited time, servitudes, and rights or actions which tend to obtain possession of an immoveable, are immoveable by reason of the objects to which they are attached."

"382. All moveable property, of which the law ordains or authorizes the realization, becomes immoveable by determination of law, either absolutely or for certain purposes. 40

The law declares to be immoveable the capital of unredeemed constituted rents that were created before the promulgation of this code, as also all moneys produced by the redemption during their minority of constituted rents belonging to minors.

The same rule applies to all sums accruing to a minor from the sale of his immoveables during his minority, which sums remain immoveable so long as the minority lasts.

10 The law declares to be immoveable all sums given by ascendants to their children, in contemplation of marriage, to be used in the purchase of real estate or to remain as private property to them only or to them and to their children."

"567. Emphyteusis or emphyteutic lease is a contract by which the proprietor of an immoveable conveys it for a time to another, the lessee subjecting himself to make improvements to pay the lessor an annual rent, and to such other charges as may be agreed upon."

"568. The duration of emphyteusis cannot exceed ninety-nine years and must be for more than nine."

20 "569. Emphyteusis carries with it alienation; so long as it lasts, the lessee enjoys all the rights attached to the quality of a proprietor. He alone can constitute it who has the free disposal of his property."

"572. The lessee is entitled to bring a possessory action against all those who disturb him in his enjoyment and even against the lessor."

"573. The lessor is obliged to guarantee the lessee, and to secure him in the enjoyment of the immoveable leased, during the whole time legally agreed upon.

30 He is also obliged to resume such immoveable and to discharge the lessee from the rent or dues stipulated, in the case of the latter wishing to leave it, unless there is an agreement to the contrary."

"574. On his part the lessee is bound to pay annually the emphyteutic rent; if he allow three years to pass without doing so, he may be judicially declared to have forfeited the immoveable, although there be no stipulation on that subject."

"575. The rent is payable in the whole, without the lessee having a right to claim its remission or diminution, either on account of sterility or of unavoidable accidents which may have destroyed the harvest or hindered the enjoyment or even for a loss of a part of the land."

"576. The lessee is held for all the real rights and land charges to which the property is subjected."

"577. He is bound to make the improvements which he has undertaken, as well as all greater or lesser repairs.

He may be forced to make them even before the expiration of the lease, if he neglect to do so, and the land suffer thereby any considerable deterioration."

"578. The lessee has not the right to deteriorate the immovable leased; if he commit any waste which greatly diminishes its value, the lessor may have him expelled and condemned to restore 10 the things to their former condition."

"580. The lessee is only allowed to abandon if he have satisfied for the past all the obligations which result from the lease, and particularly if he have paid or tendered all arrears of the dues, and made the improvements agreed upon."

"581. At the end of the lease, in whatever way it happens, the lessee must give up, in good condition, the property received from the lessor, as well as the buildings he obliged himself to construct, but he is not bound to repair those which he has erected without being obliged to do so." 20

"582. As to improvements which the lessee has made voluntarily, without being bound to do so, the lessor has the option of either keeping them, upon paying what they cost or their actual value, or permitting the lessee, if the latter can do so with advantage to himself and without deteriorating the land, to remove them at his own expense; otherwise in each case, they belong, without indemnification, to the lessor, who may, nevertheless, compel the lessee to remove them, in conformity with the provisions of article 417."

"1029. A party in like manner may stipulate for the benefit of 30 a third person, when such is the condition of a contract which he makes for himself, or of a gift which he makes to another; and he who makes the stipulation cannot revoke it, if the third person have signified his assent to it."

"2168. When a copy of the plans and books of reference for the whole of a registration division has been deposited in the office for such division, and notice has been given by proclamation in the manner mentioned in article 2169, the number given to a lot upon the plan and in the book of reference is the true description of such lot, and is sufficient as such in any document whatever; and any 40 part of such lot is sufficiently designated by stating that it is a part of such lot and mentioning who is the owner thereof and the

properties coterminous thereto; and any piece of land composed of parts of more than one numbered lot is sufficiently designated by stating that it is so composed and mentioning what part of each numbered lot it contains.

No description of an immoveable in the notice of application for confirmation of title, or in the notice of a sale by the sheriff or by forced licitation, or of any sale having the effect of a sheriff's sale, or in the sheriff's deed, or in the judgment of confirmation, will be deemed sufficient unless it is made in conformity with the provisions of this article.

As soon as such plans and books of reference have been deposited and notice thereof has been given, notaries passing acts concerning immoveables indicated on such plan are bound to designate such immoveables by the number given to them upon such plan and in the book of reference, in the manner above prescribed; in default of such designation the registration does not affect the lot in question, unless there is filed a requisition or notice indicating the number on the plan and book of reference as being that of the lot intended to be affected by such registration."

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No. 2.

CODE OF CIVIL PROCEDURE.

No. 2.
Code of Civil
Procedure.

"43. 1. Unless where otherwise provided by statute, an appeal lies to the Court of King's Bench, sitting in appeal, from any final judgment rendered by the Superior Court, except:—

a. In matters of *certiorari*; saving the proceedings contemplated by section 1295a;

b. In matters in which the sum claimed or value of the thing demanded is less than two hundred dollars.

2. Nevertheless, an appeal lies to the Court of King's Bench, sitting in appeal, from any final judgment of the Superior Court, whatever the amount in dispute:—

a. When the demand relates to fees of office, duties, rents, revenues, or sums of money payable to His Majesty.

b. When the demand relates to titles to lands or tenements, annual rents, or other matters in which the rights in future of the parties may be affected;

c. When there is a contestation of any title to lands or tenements;

d. In all actions in recognition of hypothecs."

“48. The Superior Court has original jurisdiction in all suits or actions which are not exclusively within the jurisdiction of the Circuit Court or of the Exchequer Court of Canada and particularly in all suits or actions for alimentary pension; and in the district of Quebec its has exclusive original jurisdiction in cases of petition of right.”

“49. 1. The Superior Court has original jurisdiction by means of evocation in all suits and actions instituted in the Circuit Court sitting elsewhere than at the chief place of a district, in any of the matters enumerated in paragraph 2 of article 43. 10

2. The Superior Court has also original jurisdiction by means of evocation in all suits and actions instituted in the Circuit Court of the district, relating to:—

- a. Fees of office;
- b. Duties, rents, revenues or sums of money payable to His Majesty;
- c. Titles to lands or tenements;
- d. Annual rents or other matters by which rights in future may be affected.

3. The Superior Court has also original jurisdiction by means of evocation, in all suits and actions instituted before the Magistrate's Court, in the matters enumerated in paragraph 2 of article 43 and in paragraph 2 of this article.” 20

“54. The Circuit Court has ultimate jurisdiction, to the exclusion of the Superior Court:—

1. In all suits wherein the sum claimed or the value of the thing demanded is less than one hundred dollars, saving the exceptions contained in articles 48 and 55, such cases as fall exclusively within the jurisdiction of the Exchequer Court of Canada, and matters of petition of right; 30
2. In all suits for school-taxes or school-fees, and all suits concerning assessments for the building and repairing of churches, parsonages, and churchyards, whatever may be the amount of such suits.”

“171. If, nevertheless, the court has no jurisdiction by reason of the subject-matter of the action, the reference may be demanded at any stage of the case; and if the reference is not demanded, the court is obliged of its own motion to refer the case to the proper authority.”

No. 3.

CITIES AND TOWNS' ACT.

Revised Statutes of Quebec 1925, Chapter 102.

Section 485 corresponds to Art. 5696, 1909 R.S.Q. which by the Act 5 Geo. V. Cap. 93 Sec. 72 was replaced for the Respondent by the following :—

10 "5696. The assessors shall, each year, at the time and in the manner ordered by the council, assess the taxable property of the municipality, according to its real value. In assessing every property, they shall value separately the land, the buildings thereon erected, and the annual value of such property, and enter each valuation in a separate column of the roll.

They shall also enter in the roll the names of all occupants, and the amount of annual rent paid by each of them. The Council may, by resolution, relieve the assessors from the duty of making a valuation roll of the taxable property oftener than every three years; and in such case, the council shall revise the roll every year, or cause it to be revised by the assessors, as it deems expedient, giving the same notices and delays as for the making of the yearly valuation roll."

20 "488. The actual value of the real estate in the municipality assessable for purposes of taxation shall comprise lands and buildings, work-shops and machinery and their accessories thereon erected, and all the improvements made thereto."

"491. If the owner of any lot of land be unknown, the assessors shall insert the word "unknown", in the column of names of owners, opposite the description of such lot of land."

30 "499. (in part). "If any property be omitted from the roll prepared by the assessors, the council may order such officers to value such property and to add it to the roll."

"500. If, after the valuation roll has been declared homologated, any property is considerably diminished in value, either by fire, the pulling down of buildings, or any other cause, the council may, on petition of the owner, cause the valuation of such property to be reduced to its real value."

"502. After every change of owner or occupant of any lot of land set forth in the valuation roll in force, the council, on a written petition for that purpose, and upon sufficient proof, may erase the name of the former owner or occupant, and enter on such roll the name of the new one."

40 "514. (in part). "When the real estate tax based on the municipal valuation so contested amounts to five hundred dollars.

there shall be an appeal from the final decision of any court to the Court of King's Bench, whose decision shall be final."

"520. 1. The following property shall not be subject to taxation :—

a. Lands belonging to His Majesty or held in trust for the service of His Majesty;

b. The property of the Federal and Provincial Governments and the municipal corporation;

c. That belonging to *fabriques* or religious, charitable or educational institutions or corporations, or occupied by such *fabriques*, institutions or corporations for the purposes for which they were established and not possessed by them solely for the purpose of deriving a revenue therefrom; 10

d. Property possessed and used for public worship, episcopal residences, presbyteries, parsonages and cemeteries, and their dependencies. The presbyteries and parsonages, above mentioned, include any house occupied as a residence by the priest or minister in charge of any church, whether such house be the property of the *fabrique* or of the religious institution or corporation, the owner of the church, or whether it be occupied by the priest or minister as a tenant, provided that only one presbytery, parsonage or residence for each church shall benefit from the exemption granted by this section; 20

e. Immoveables used for libraries open to the public free of charge;

f. All educational establishments which receive no grant from the municipality where they are situate, as well as their dependencies and the lands on which they are erected.

2. The exemptions mentioned in subsection 1 of this section shall not apply to persons occupying, under a title other than that of owner, immoveable property belonging to His Majesty or to the Federal or Provincial Government, who shall be assessed as if they were the actual owners of such immoveables, and be liable for the payment of the general and special real estate taxes. 30

3. The owners and occupants of the property mentioned in paragraphs c. d. e and f of subsection 1 of this section shall nevertheless be bound for the cost of the works required for the maintenance of the streets situate opposite such property in the municipalities where such streets are not, wholly or in part, at the charge and expense of the municipality, under the provisions of this act. Such properties shall nevertheless be taxable for public lighting, for the purchase and maintenance of fire-fighting apparatus, and for the use of water. 40

They shall also be taxable for the opening and maintenance of streets, when such work is wholly or in part at the charge and expense of the municipality, provided that the opening or maintenance work on streets dependent on such property be assumed by the municipality.

For the purposes of this subsection 3, only the actual value of the lands shall be considered, notwithstanding the provisions of section 488, to establish the tax to be imposed on the property mentioned in paragraphs c. d. e and f of subsection 1 of this section."

10 "521. (in part). "The Council may impose and levy, annually, on every immoveable in the municipality, a tax of not more than two per cent. of the real value as shown on the valuation roll."

"530. The cadastral number given to immoveable property upon the official plan and in the book of reference for the territorial division in which such property is situated shall, for taxation purposes, be a sufficient description and identification of such property in the valuation and collection rolls."

20 "531. Whenever the subdivision of any property has not been registered in the registry office for the registration division within which such property is situated, the assessors may assess it as a whole, without taking any notice of the subdivision, and the corporation may levy the tax on the whole or on any part of such property; but if a subdivision thereof has been registered, the assessors shall assess each subdivided lot separately, and the taxes shall be imposed on each of the lots according to its valuation."

30 "533. Any person, not being the owner, who pays municipal taxes imposed in consideration of the land which he occupies, shall be subrogated without other formality, in the privileges of the municipality on the moveable or immoveable property of the owner, and may, unless there be an agreement to the contrary, withhold from the rent or from any other debt which he owes him, or recover from him by personal action, the amount which he has paid in principal, interest and costs."

"534. Municipal taxes, imposed on any land, may be collected from the tenant, occupant or other possessor of such land as well as from the owner thereof, or from any subsequent acquirer of such land, even where such tenant, occupant, possessor or acquirer is not entered on the valuation roll."

40 "537. The council shall, on the requisition of the school commissioners or trustees of any school municipality situated within the municipality, accept the school assessment roll or the certified extract therefrom presented by them, and order the treasurer to

collect such taxes, in the same manner and at the same time as municipal taxes."

" 539. If the municipal council has ordered, by resolution, that the collection of school taxes be made at the same time and in the same manner as municipal taxes, the treasurer shall enter in the general collection roll the amount of such taxes, collect them and remit them forthwith to the secretary-treasurer of schools. In such case actions to recover taxes shall be taken by the municipal corporation."

After Art. 5748, 1909 R.S.Q. which corresponded to Section 539 10 the following Articles were added for the Respondent by the Act 11 George V, Cap. 114, sec. 3 and were repealed by the Act 16 George V, Cap. 74, which enacted similar provisions:—

" 5748a. The city may, under agreement with the school commissioners or trustees of any school municipality situated within the municipality, upon resolution to that effect passed by said school commissioners or trustees, as the case may be, and by the city council, acquire the school assessment roll or a certified extract therefrom presented by said school commissioners or trustees, and pay the said school commissioners or trustees the amount mentioned 20 on such school assessment roll or certified extract therefrom, less the amount of a commission of not more than one per cent., at the dates and in the manner agreed upon."

" 5748b. The resolution passed by the school commissioners of the municipality of the city of Outremont, in the county of Westmount, on the tenth day of March, 1919, the resolution passed by the school trustees for the municipality of the city of Outremont, in the county of Westmount, on the eleventh day of March, 1919, and the resolution passed by the city council of the city of Outremont, on the second day of April, 1919, are hereby declared legal and valid 30 for all intents and purposes."

" 540. The treasurer, after having completed the collection roll, shall give public notice announcing that the general collection roll, or the special roll, as the case may be, has been completed and is deposited in his office, and requiring all persons, bound to pay the sums therein mentioned, to pay the same at his office, within the twenty days following the publication of such notice."

" 541. After such twenty days, the treasurer shall make a demand of payment of all sums entered in the collection roll, and remaining uncollected, from the persons liable for the same, by 40 serving or causing to be served upon them personally, or at their

domicile, a special notice to that effect, accompanied by a detailed statement of the sums due by them.

Until the fee for the service of such notice is fixed by the council, the treasurer shall be entitled to twenty-five cents. for such service."

Sec. 546 corresponds to Art. 5755, 1909 R.S.Q. which, by the Act 11 George V, Cap. 114, sec. 4, was replaced for the Respondent by the following Article:—

"5755. The payment of municipal taxes and of school taxes, in cases provided for in articles 5748, 5748a, and 5748b, may be also
10 claimed by an action brought in the name of the corporation before the Magistrate's Court, or the Circuit Court for the county or district, or before the mayor, or two or more councillors acting *ex officio* as justices of the peace, or before the recorder's court if there be one."

"550. Within fifteen days of the order of the council, the clerk shall give public notice of the day, hour and place where the sale by auction will be held. The notice shall contain a description, according to the provisions of article 2168 of the Civil Code, of the immoveables the sale whereof is so ordered, and it shall be posted up at the places fixed by the council for publication of municipal
20 notices.

If the publication of municipal notices be made in the newspapers in accordance with section 373, the clerk shall post up the notice of sale in two public places in the municipality."

"555. The purchaser shall thereupon be seized of the immoveable adjudged, and may enter into possession thereof, subject to the same being redeemed within the year following, but shall not remove timber nor the buildings therefrom during the said year."

"556. Within the eight days following the adjudication, the clerk shall transmit to the registrar a list of the immoveables so sold
30 for municipal taxes, with the name of the purchaser of each of such immoveables."

No. 4.

EDUCATION ACT.

Revised Statutes of Quebec 1925, Chapter 133.

"2. (in part). "In this act, or in any regulations respecting education, the following words, terms and expressions shall have the following meanings:—

"(15). The words 'real estate', 'land' or 'immoveable' mean all lands, held or occupied by one person or by several persons jointly,

including the buildings and improvements thereon and including everything that is immovable by virtue of the municipal laws governing the territory of school municipalities;"

"(16). The words 'taxable property' mean the real estate liable for school taxes."

"249. The school commissioners and trustees shall cause to be levied by taxation the taxes necessary for the support of the schools under their control.

The rates of school assessments shall be uniform upon all taxable property in the school municipality. The assessment shall be based upon the valuation of such taxable property, and shall be payable by the owner, occupant, or possessor of such property. If not paid, such assessment shall be a special hypothecary charge upon such property, not requiring registration." 10

"254. The school commissioners or trustees shall value and tax any parcel of land separated from any land already valued and taxed, or upon which one or more buildings have been erected since the publication of the valuation roll then in force, and make, in such valuation roll and in the collection roll, such alterations as become necessary because of the separation of such parcel, or the erection of such building. The commissioners or trustees need not, however, make such valuation when the alterations are unimportant." 20

"367. The valuation of property, which has been made by order of the municipal authorities, shall serve as the basis of the assessments to be imposed by school corporations."

"371. If no valuation has been made by order of the municipal authorities or if the valuation roll could not be obtained within the delay prescribed by section 368, the school board shall at once cause a valuation of the immovable property of the municipality to be made by three competent persons who reside in the municipality." 30

"378. The school commissioners or trustees shall, during the thirty days that follow the notice given in virtue of section 377, even when there have been no complaints, examine and amend the valuation roll, correct any errors made in entering valuations or the names of persons assessed, in the description of the lands included and in the calculation of the assessments, and strike out or insert the names of persons, and the description of lands entered on the roll or omitted, by error."

"392. The school board shall, during the ten days following the delay of thirty days during which the roll remains in the office of the secretary-treasurer for examination by the parties interested, even 40

though no complaint has been made, examine and amend the collection roll, rectify the errors made in transcribing the valuations, the names of persons taxed, the descriptions of lands entered therein, or in the calculations of the taxes imposed, and homologate such roll."

"398. The local council of any city, town, village or rural municipality, when required by the school board of a school municipality situate wholly or partly in its territory, shall collect the taxes of such school municipality at the same time as its own."

10 "399. The secretary-treasurer of the said municipal council shall, so soon as he has collected the school taxes, hand over the entire amount to the secretary-treasurer of the school board to which they belong."

"416. The secretary-treasurer shall prepare, in the month of November in every year:—

1. A statement of the school assessments and monthly fees remaining due by ratepayers residing in the municipality and by those who are absent;

20 2. A statement of the school assessments and monthly fees due by ratepayers residing in the municipality and by those who are absent, with respect to whom either a warrant of distress or a writ of execution has been returned unsatisfied, and of any costs incurred and unpaid.

The statement must show the names and occupations of such ratepayers, and a description of the lands liable for the payment of such taxes, according to the valuation and collection rolls."

30 "418. The secretary-treasurer shall, before the 20th of December, send the statements mentioned in section 416 to the secretary-treasurer of the county council, and the latter shall proceed to the sale and adjudication of the lands mentioned therein in the same manner as in the case of a statement of municipal tax arrears transmitted by the secretary-treasurer of a local municipality."

"498. (corresponding to Art. 2971, 1909 R.S.Q.).

"Any school board may institute such suits as they deem necessary for the recovery of sums due, for school assessments, monthly fees and for arrears thereof."

40 "499. All suits and actions under section 498, whatsoever may be the amount thereof, shall be instituted before the Circuit Court or the Magistrate's Court having jurisdiction within the territory where the school municipality, in whole or in part, is situated.

Wherever the amount claimed exceeds five hundred dollars, an appeal shall lie from the decisions rendered by such courts to the Court of King's Bench composed of three judges.

Such appeal shall be exercised in the same manner as the appeal from the decisions of recorders and recorders' courts, under sections 9 to 16 of the Recorders' Court Act."

(This Section corresponds to Art. 2972, 1909 R.S.Q. which, up to 1925, read as follows:—

"2972. All suits, instituted under article 2971, may be brought before the Circuit Court, or before the Magistrate's Court of the district, provided the amount does not exceed the lawful jurisdiction of such courts.").

THE PROTESTANT SCHOOL ACT.

Statutes of Quebec, 15 George V, Chapter 45, Section 16.

"16. (1) From and after the 1st of July, 1925, in the various cities, towns or other local municipalities the territory of which is subject to the jurisdiction, for Protestant school purposes, of the Central Board, there is hereby imposed a uniform tax, to be entitled the Protestant School Tax, at the rate of ten mills in the dollar, upon all immoveable property in such municipalities belonging to Protestant property-owners.

(2) From and after the 1st of July, 1925, in the various cities, towns or other local municipalities mentioned in paragraph 1 of this section, there is hereby imposed a uniform tax at the rate of twelve mills in the dollar, upon all the immoveable property inscribed in the neutral panel of each such city, town or local municipality, to be apportioned between Protestant and Roman Catholic education *as by law provided.*" Note: by the Act 16 George V, Cap. 47, Sec. 1, the words in italics were replaced by the following:—

"proportionately to the number of children from five to sixteen years of age of each religious denomination, respectively, residing in the municipality, as appears by the school census of the previous school year, with the exception of the city of Montreal,"

and there was added to subsection 2 the following paragraph:—

"Nevertheless, after such apportionment, in any municipality other than the city of Montreal, before any part of the proceeds of the neutral panel tax may be paid over to any

10 Roman Catholic School Board for the purposes of Roman Catholic education, such School Board must first satisfy the proper municipal authorities that all the immoveable property belonging to Roman Catholic property-owners in the territory subject to the jurisdiction of the School Board in question has been taxed for school purposes, for the same school year, at a rate not less than the rate in force for such purposes, on the 30th of June, 1925. Upon such proof being made, it shall be the duty of the municipal authorities to pay over, out of the proceeds of the neutral panel tax, to the Roman Catholic School Board concerned, an amount which shall not exceed such amount as would have been available out of such neutral panel tax for Roman Catholic education, if the rate in force for the neutral panel had been the same rate that was in force for such panel on the 30th of June, 1925, provided, however, that no such last mentioned rate may be reckoned at more than twelve mills on the dollar. The surplus, if any, shall be forthwith returned to the ratepayers on the neutral panel in the same proportion in which it was paid in by them. This paragraph shall apply as and from the first of July, 1925."

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(3) The taxes mentioned in paragraphs 1 and 2 of this section are hereby substituted for and shall take the place of all other taxes heretofore imposed upon property inscribed upon the Protestant or neutral panel of any such city, town or local municipality.

(4) In every municipality under the jurisdiction of the Central Board in which there is no neutral panel under the law, the neutral panel referred to above shall include all immoveable property which, according to the law now in force in the city of Montreal, forms panel No. 3, as defined by the Act 2, George V, chapter 28, section 8.

30 (5) The taxes above mentioned shall be levied and collected by the proper municipal authorities, at the same time as the municipal taxes, and, notwithstanding any special or general provision of law governing any such municipality, the amount of the said Protestant school tax so levied and the share of the said tax upon the neutral panel accruing for the benefit of Protestant education, shall be paid over to the Central Board by the proper municipal authorities, *as soon as collected, in accordance with the provisions of Section 12, at such date or dates as may be fixed by the Central Board; insofar, however, as the City of Montreal is concerned, the payment of the*

40 *amounts accruing under this Act shall be made in accordance with the provisions of the Act 10 George V, Chapter 40, Section 5.* (Note: by the Act 16 George V, Cap 47, Section 1, the words in italics were replaced by the following:—

“Independently of the collection thereof, in four payments, the first of which shall be forty per cent., payable within one month of the date fixed by the said municipality as the due date of the tax on immoveables, both for municipal and for school purposes; the second of which shall be twenty per cent., payable two months after the due date of the tax on immoveables; the third of which shall be twenty per cent., payable four months after the due date of the tax on immoveables; and the fourth of which shall be the balance of the amount of the tax above mentioned and shall be payable seven months after the due date 10 of the tax on immoveables, but in any event not later than the 30th of June in each year; provided that, in the case of the city of Montreal, at the time of payment of each instalment of the said sum there shall be deducted from it the amount previously paid or then payable for interest and sinking-fund on the bonds of the Protestant Board of School Commissicners of the City of Montreal; and every said sum shall be recoverable by the said Central Board before any court of competent civil jurisdiction, with interest and costs. As to the school taxes for the school year ending on the 30th of June, 1926, the full amount thereof, 20 whether collected or not by the proper municipal authorities, shall be paid over by the latter to the Central Board not later than the said 30th of June, 1926.”)

(6) Out of the moneys so received the Central Board shall pay over from time to time, to each local board, the amount necessary to meet the budget requirements of each local board as approved by the Central Board.

(7) The town of Mount Royal and the town of Hampstead shall be exempted from the application of the taxes imposed by this section for the three years next after the coming into force of this 30 Act, and during such three years the school taxes in the said towns shall be fixed by their respective local boards, provided that they be not lower than those now in force.

TOWN CORPORATIONS GENERAL CLAUSES ACT.

Revised Statutes of Quebec 1888.

(Applicable to the Respondent in 1904).

“4398. The council has the right to make, amend, repeal or replace in whole or in part, from time to time, by-laws which refer 40 to itself, its officers, or the municipality, upon any of the following subjects:”

"4471. To provide for the lighting of the town in any manner deemed advisable; and to punish any person extinguishing, without authority, the lamps provided for such lighting;

The owners or occupants of houses, buildings or lands in the town, are bound to permit the necessary pipes, lamps and posts to be placed on their houses, buildings or lands, saving recourse in damages, if any be occasioned thereby."

"4559. The council may, by a resolution, exempt from the payment of municipal taxes, for a period not exceeding twenty years,
10 any person who carries on any industry, trade or enterprise whatsoever, as well as the land used for such industry, trade or enterprise, or agree with such person for a fixed sum of money payable annually for any period not exceeding twenty years, in commutation of all municipal taxes.

It may also exempt the poor of the municipality and their property from the payment of municipal taxes.

Such exemption or agreement shall not extend to work upon water-courses, boundary ditches, fences or front roads connected
20 with taxable property so exempted or commuted."

No. 7.

CITIES AND TOWNS' ACT.

Revised Statutes of Quebec 1909.

"5668a. (enacted for the Respondent by 7 George V, Cap. 66. sec. 2). "The city council, by a two-thirds vote of its members, may from time to time advance to the Montreal Light, Heat and Power Company, certain sums of money to defray the cost of extending gas mains in streets, parts of streets or sections of the city where the said company, under its contract with the city, is not bound to make such
30 extensions.

The said advances shall be made under such conditions as the council and the said company may mutually agree upon. To pay the interest on the amounts so advanced, the council may levy assessments upon the proprietors owning immoveable property on any street, public place or square or portion thereof where such extensions are made, or upon proprietors owning immoveable property benefited thereby, or otherwise as the council may direct; and the council may regulate the mode of making and levying such assessments, either according to frontage of each property served or
40 benefited, or otherwise. Such assessments shall constitute special taxes."

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF
THE CITY OF SHERBROOKE.

Statutes of Quebec, 7 Edward VII, Chapter 66, Section 58.

(replacing for the City of Sherbrooke certain articles of the Cities
and Towns' Act, 1903).

" 58. (in part). " Articles 474, 475, 476, 477 and 480 of the said
Act are replaced, for the city, by the following:—

' 474. The Council may, by by-law, impose and levy:

(k) The council may also make by-laws to compel any incor-
porated company to pay to the city an annual special tax not 10
exceeding twenty-five cents upon each wooden or metal post planted
or erected or that shall be planted or erected by such company in the
streets of the City for telegraph, telephone or electric light lines, or for
transporting electric motive power, and the said council may levy
said tax for each said pole.' " (Similar provisions have been enacted
for certain other cities and towns, *e.g.*, Hull, 1 Edward VII, Cap. 45,
sec. 16; Lachine, 9 Edward VII, Cap. 86, sec. 44; Maisonneuve,
9 Edward VII, Cap. 89, sec. 8; and St. Lambert, 3 George V, Cap. 62,
sec. 38).

No. 45 of 1931.

In the Privy Council.

ON APPEAL

**FROM THE COURT OF KING'S BENCH FOR THE
PROVINCE OF QUEBEC (Appeal Side).**

BETWEEN

**MONTREAL LIGHT, HEAT & POWER
CONSOLIDATED (*Defendant*) and THE
MONTREAL LIGHT, HEAT &
POWER COMPANY (*Mis-en-cause*)
(*Appellants*)**

— AND —

**THE CITY OF OUTREMONT (*Plaintiff*)
(*Respondent*).**

JOINT APPENDIX.

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