

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1840. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1840.

3 Victoria – Chapter 72

An Act to facilitate the means of supplying the City of Saint John with Water. Passed 31st March 1840.

Whereas a Company incorporated under the authority and by virtue of several Acts of Assembly of this Province, called "The Saint John Water Company," has lately been established in the City of Saint John for the purpose of supplying the said City with Water; and whereas the operations of the said Company have been found very conducive to the security of property and the interest and convenience of the Inhabitants of the said City, and it is considered that further public advantages will be derived by authorizing the said Company to relinquish their Charter of Incorporation, and to place the future operations thereof under the controul of the Mayor, Aldermen and Commonalty of the City of Saint John:

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and May be lawful for the President and Directors for the time being, of the Saint John Water Company, or the major part of them, at any time or times after the passing of this Act, by public advertisement in two or more of the Newspapers published in the said City, to require the Stockholders of the said Company to pay in all or such part of the residue of the Capital Stock now remaining unpaid, as they the said President and Directors, or the major part of them shall think fit, by such instalments and proportions and at such times and periods, and in such manner as they the said President and Directors or the major part of them shall from time to time direct and appoint; and in case default shall be made in payment of any part of the residue of the said Capital Stock so to be required, it shall be lawful for the said President and Directors of the said Com-pany for the time being, or the major part of them, to take all such measures to recover the same, or to provide for the forfeiture of the Shares in respect of which such default shall have been made as the said President and Directors might or could have lawfully taken with regard to defaults of a like nature made in respect of any part of the residue of the Capital Stock which has been required to be paid in previous to the passing of this Act.

II. And be it enacted, That the said President and Directors shall, as soon as conveniently may be, pay off and Discharge all the debts, liabilities and engagements of the said Company, of what nature or kind soever, excepting only the loan of five thousand pounds and the interest thereof, heretofore granted to the said Company from the Province Treasury, by virtue of an Act of Assembly, passed in the eighth year of the reign of His late Majesty King William the Fourth, intituled "An Act to grant a loan of five thousand pounds to the Saint John Water Company."

III. And be it enacted, That it shall be the duty of the President and Directors of the said Company for the time being, within one month after the passing of this Act, to make up and prepare a just true and correct statement of the whole of the affairs of the said Company, which said statement shall shew the whole amount, expended and paid by the said Company for any purpose or

purposes whatever, the debts, obligations and liabilities of and the claims against the said Company, and each and every of them, of what nature or kind soever, all sums of money from time to time received, and the times when the same may have been received, as well on account of the Capital or Stock of the said Company or otherwise howsoever, and all sums of money due and owing to the said Company; and likewise shall set forth and state all the property of the said Company, as well real as personal, and all other matters and things whatsoever relating to the said Company; which said accounts shall be verified under the respective oaths of the President and Secretary of the said Company, and shall be delivered to the Mayor of the said City for the time being, for the information of the said Mayor, Aldermen and Commonalty; and within fourteen days after such delivery of the said accounts, the President and Directors or the time being of the said Saint John Water Company shall nominate and appoint two fit and proper persons, not being Directors of the said Company for the time being, and the said Mayor, Aldermen and Commonalty of the City of Saint John, in Common Council convened, shall nominate and appoint three fit and proper persons, being Members of the said Common Council or otherwise in which five persons so nominated and appointed shall forthwith, on receiving notice of their appointment, proceed to investigate the whole affairs and operations of the said Company, and to examine and inspect the books, documents, papers, vouchers and writings relating to the business of the said Company, and also a of the property, machinery and works of the said Company; and after such examination and inspection the said persons so nominated and appointed as aforesaid, or the major part of them, shall make a full report in writing under their hands of the state of the affairs and business, and also of the property, machinery and Works of the said Company; one copy of which said report shall be furnished to the said President and Directors of the said Water Company and another copy thereof shall be delivered to the Mayor of the said City, for the use and information of the Common Council thereof.

IV. And be it enacted, That after the said reports shall have been finished and delivered as hereinbefore provided, in case an agreement for that purpose shall be made between the said Saint John Water Company and the said Mayor, Aldermen and Commonalty, it shall and may be lawful for the said Saint John Water Company, by good and sufficient assurances in the Law, to assign, transfer, convey and assure to the said Mayor, Aldermen and Commonalty of the City of Saint John, their successors and assigns for ever, all the lands, tenements and hereditaments, machinery, engines, water pipes, goods, merchandize, chattels, fixtures and effects of the said Company, of what nature or kind soever and wheresoever, and all their estate and interest therein, with all rights, privileges and appurtenances to the same, belonging, for such sum or sums of money as a consideration for the same, and in such manner to be paid as may be fixed and determined by agreement between the said Mayor, Aldermen and Commonalty of the City of Saint John, and the said Saint John Water Company.

V. And be it enacted, That upon the said transfer and assignment to the said Mayor, Aldermen and Commonalty of the City of Saint John, of all the property and effects of the said Saint John Water Company, being completed in manner hereinbefore provided, and notice thereof published in two or more of the Newspapers printed in the said City of Saint John, then the establishment of the said Company by the name of the Saint John Water Company shall cease and be dissolved, and all the provisions contained in any Act or Acts of Assembly relating to the

establishment, constitution and regulation of the said Company shall be void and of no effect, and the Directors then in office shall take immediate and effectual measures for dividing the securities or debentures hereinafter mentioned, to be received for the consideration money for such transfer among the Stockholders of the said Company, in proportion to their respective interests.

VI. And be it enacted, That upon the dissolution of the said Saint John Water Company as hereinbefore provided, it shall be the duty of the said Mayor, Aldermen and Commonalty of the City of Saint John, and they are hereby required forthwith to proceed with and continue the operations for supplying the said City and its vicinity with Water, in manner contemplated by the said Acts of Assembly hereinbefore mentioned, and according to the true intent and meaning thereof; and the said Mayor, Aldermen and Commonalty of the City of Saint John shall have and exercise all the powers, privileges and authorities, and be subject to all the regulations and provisions mentioned and contained in the fifteenth, sixteenth, seventeenth and eighteenth Sections of the Act passed in the second year of the Reign of His late Majesty King William the Fourth, intituled "An Act to incorporate sundry persons by the name of the Saint John Water Company," so far as the same may be applicable to the said Mayor, Aldermen and Commonalty of the City of Saint John, and as fully and effectually to all intents and purposes as, if the said Mayor, Aldermen and Commonalty of the City of Saint John had taken up and subscribed for the whole of the said Capital Stock within one calendar month after the passing of the said last recited Act, as mentioned and expressed in the nineteenth Section thereof.

VII. And be it enacted, That the said Mayor, Aldermen and Commonalty of the City of Saint John do and shall, in every Street or Road through which the Pipes for conducting the Water shall be laid, make and provide proper vents and openings at convenient and proper places and distances from each other, for supplying Water whenever Fires shall happen in the said City or the vicinity thereof.

VIII. And be it enacted, That the said Mayor, Aldermen and Commonalty of the said City shall cause all the matters and accounts relating to or connected with the operations of supplying the said City and its vicinity with Water, to be kept separate and distinct from all the other affairs and accounts of the said City; and shall, for the purpose of carrying on such operations, nominate and appoint from time to time as to them in Common Council shall seem meet, one or more person or persons to superintend and manage the same under their directions; and such person or persons may displace and appoint others in his or their stead; and shall have full power and authority in Common Council to make, ordain, establish and declare, by ordinance or otherwise, such rules, regulations and orders for the due government and regulation, of the persons employed or connected with such establishment and of all other persons whomsoever, as well with respect to the use of the Water as otherwise howsoever, and shall and may enforce obedience to such rules, regulations and orders, by penalties and fines, in the same manner as the said Mayor, Aldermen and Commonalty of the said City are empowered and enabled to do under and by virtue of any laws or ordinances made and ordained by them, in pursuance of the Charter of the said City.

IX. And be it enacted, That for the purchasing and paying for the rights, and interests of the Stockholders in the said Company, and likewise for carrying on the future operations connected

with the supplying the said City and its vicinity with Water, it shall and maybe lawful to and for the said Mayor, Aldermen, and Commonalty of the City of Saint John, in Common Council convened, by Resolution from time to time duly passed and entered in the minutes of their proceedings, to issue Notes or Debentures for such sum or sums of money, and in such amounts as they may deem advisable; the amounts named and expressed in such Notes or Debentures to bear Interest at and after the rate of six pounds per centum per annum, which Notes or Debentures shall be signed by the Mayor of the said City, and countersigned by the Chamberlain and Common Clerk of the said City, and shall be in the following form, namely:

Form of Notes or Debentures.

Number.

City of Saint John,

Province of New Brunswick.

Whereas by virtue of an Act of me General Assembly of the third year of the Reign of Queen Victoria, Chapter _____ intituled "An Act to facilitate the means of supplying the City of Saint John with Water," authority was given to the Mayor, Aldermen and Commonalty of the City of Saint John, on the purchase by the said Corporation of the Stock (if the Saint John Water Company, to give Notes or Debentures to the Stockholders of the said Company pursuant to the terms of the said Act, and _____ [here insert Parish, County and Province, and occupation, as the case may be,] being the owner of _____ Shares of the Capital Stock of the said Saint John Water Company, at £ _____ per Share, amounting in the whole to the sum of £ _____ [or in case of loan for carrying on the operations of the said Saint John Water Company, _____ of (here insert place of residence and other particulars as before,) having loaned to the said Mayor, Aldermen and Commonalty, for and on account of the said Saint John Water Company, the sum of £ _____]

Now therefore, this Note or Debenture is chargeable, as respects the Interest of the sum mentioned in the said Note or Debenture, on all the estate, lands, tenements and hereditaments, revenues, goods, chattels and effects whatsoever and wheresoever, belonging to the said Mayor, Aldermen and Commonalty, or which shall hereafter belong to the said Mayor, Aldermen and Commonalty, for the Interest which may be due on the said sum of £ _____ at and after the rate of six per centum, the said Interest to be paid half yearly, agreeably to the provisions of the said Act; and this Note or Debenture is further chargeable as respects the said principal sum of £ _____ on all the estate, lands, tenements and hereditaments, revenues, goods, chattels and effects which the said Mayor, Aldermen and Commonalty hold by transfer or otherwise from the said Saint John Water Company, and on the said last mentioned property only, for the said principal sum of £ _____ payable at such time and times as the said Mayor, Aldermen and Commonalty shall, in Common Council, from time to time declare, pursuant to the provisions of the said Act; the said principal sum and interest money aforesaid, or either of them, to be paid to the said _____ or to such person or persons as he or they shall authorize, by indorsement or writing on the face thereof, according to the form in Schedule A., to receive the same. Given under my hand this _____ day of _____ in the year, &c.

Debenture £ _____

Half yearly Interest £ _____

Mayor of the City of Saint John.

By order of the Common Council.

, Chamberlain.

, Common Clerk.

SCHEDULE A.

Form of Transfer.

I _____ [the person named in the Note or Debenture,] do hereby authorize or such person as he shall appoint to receive the amount of the within [or this] Note or Debenture, and the interest.

and shall be transferable by indorsement, and shall be redeemed and redeemable at such time or times as the said Mayor, Aldermen and Commonalty, in Common Council convened, shall from time to time appoint and determine; and the interest thereof at the rate aforesaid, shall be paid half yearly, on the thirty first day of December and thirtieth day of June in each and every year; and in case of delay or default in payment of such interest monies, it shall and may be lawful to and for the holder or holders of any such Notes or Debentures, from time to time, to compel the said Mayor, Aldermen and Commonalty, after demand being made for the payment of the same interest money upon the Chief Superintendent of the said Water Works, and also upon the Chamberlain of the said City, by action at Law or otherwise, to pay the same, with costs of suit and interest thereon from the time of such demand being made on the said Chamberlain; provided that no Note or Debenture for a less sum than one hundred-pounds shall be issued by virtue or under the authority of this Act, any thing herein contained to the contrary thereof notwithstanding.

X. And be it enacted, That the Mayor, Aldermen and Commonalty of the City of Saint John may grant to the holders of any Debentures or Notes issued under and by virtue of this Act, in addition to the interest on the said Debentures or Notes, such a portion of the income or proceeds from the Water Stock as they, in Common Council, shall think proper, not exceeding however in the whole one fifteenth part of the gross proceeds or income from the said Water Stock.

XI. And be it enacted, That for securing the payment of the said interest money at the times appointed therefor, all the estate, lands, tenements, hereditaments, revenues and properties whatsoever, either real or personal, of the said Mayor, Aldermen and Commonalty whatsoever and wheresoever, shall be and they and every of them are hereby declared to be bound and answerable for the payment of the same.

XII. And be it enacted, That it shall be the duty of the said Mayor, Aldermen and Commonalty of the City of Saint John, to cause a Report to be made on or before the third Monday in January in each and every year, of the then state and condition of the said Water Works, which said Report shall contain an exact and particular statement of the Notes or Debentures given under the provisions of this Act, and the sums of money receiver on account thereof, and the names of the parties to whom such Notes or Debentures were given during the year ending the thirty first day

of December then last past, and also a particular detailed statement of all sums of money received up to the said thirty first day of December in respect of the said Water Works, either for the sale of Water, or the privilege of using the said Water or the Pipes and Machinery, or otherwise howsoever, and the names of the parties from whom the same shall have been received, and also a statement of any sum or sums of money due, owing or payable for or in respect of the same, and the names of the parties by whom the same may be so due, owing or payable, and also a particular statement of the interest monies computed up to the said thirty first day of December, upon all the Debentures or Notes issued or sums of money borrowed under the provisions of this Act; and the said Report shall also specify what particular works have been done during the said year, and generally shall exhibit a full and complete account of all the affairs and business connected with the said Water Works; which Report shall be signed by the person superintending or in charge of the same, and attested to by him on oath before any Justice of the Peace in and for the City and County of Saint John and submitted to the Common Council of the said City.

XIII. And be it enacted, That in case it shall appear by any such yearly Report so signed, attested and submitted as aforesaid, that the amount received in respect of such Water Works, either for the sale of Water, or for the privilege of using the said Water, or the Pipes or Machinery, or otherwise howsoever, shall not be equal to the amount of interest monies payable on the Debentures or Notes issued by virtue of this Act, and the expenses of superintending the said Water Works for the period ending on the thirty first day of December in each year, that then and in such case and so often as the same shall appear by any such annual Report, it shall and may be lawful for the said Mayor, Aldermen and Commonalty of the City of Saint John, in Common Council convened, at any time within thirty days after the said Report shall have been submitted to them, to determine, direct and order that the amount of the deficiency of funds for the payment of such interest money, together with the expenses of assessing, levying and collecting the same, shall be assessed and levied on the inhabitants on the eastern side of the Harbour of the said City, or in any district or districts thereof to be particularly described and set forth, and to direct, by warrant under their common seal, the assessors hereinafter mentioned to make a rate or assessment in due proportion upon all and every person or persons who do or shall inhabit, hold, occupy and enjoy any house, shop, warehouse or other tenement on the eastern side of the harbour aforesaid, or any district or districts thereof as above mentioned, and the said assessor are hereby required and authorized forthwith to make such rate and assessment; which same rate and assessment so to be made shall be levied and collected in the same manner as Parish or County Rates are or may be levied and collected, by virtue of any Act of Assembly in force within the said City and County at the time the same may be ordered to be levied and collected.

XIV. And be it enacted. That it shall and may be lawful for the said Mayor, Aldermen and Commonalty of the said City, in Common Council convened, from time to time and as often as may be necessary and requisite under the provisions of this Act, to nominate, and appoint three discreet persons, being freemen and freeholders of the said City, to act as assessors under this Act, who shall be sworn to the faithful discharge of such duty before the Mayor, Recorder, or either of the Aldermen of the said City; and any person so appointed who shall neglect or refuse to accept the said appointment or to become qualified to perform the duties thereof, or having become so qualified, shall neglect or refuse to perform his duty, shall for each and every neglect or refusal

forfeit and pay the sum of ten pounds, to be recovered on conviction before any Justice of the Peace in and for the said City and County, and levied with costs of prosecution by distress and sale of the goods and chattels of such offender, by warrant under the hand and seal of such Justice, and paid into the hands of the Superintendent of the said Water Works, to be applied for such uses and in such manner as the rates and assessments collected under this Act, and for no other use whatsoever; and the said Mayor, Aldermen and Commonalty of the City in Common Council convened, shall and may appoint some other person or persons being Freemen and Freeholders of the said City, in the place or places of, any person or persons so refusing or neglecting, and so often as such case shall happen, which person or persons so to be appointed in the place or places of such person or persons so neglecting or refusing, shall be liable to the like penalties for neglect or refusal as the said persons first appointed, to be in like manner recovered, paid and applied, and so as often as the case may happen.

XV. And be it enacted, That none of the property, either real or personal or otherwise of the said Mayor, Aldermen and Commonalty of the said City of Saint John shall be liable and answerable for any of the debts, contracts or obligations of the said Saint John Water Company, except only the sum of five thousand pounds hereinbefore mentioned, loaned out of the Province Treasury as aforesaid.

XVI. And be it enacted, That if any person shall wilfully and maliciously break, damage, thrown down, destroy or injure any of the Pipes, Machinery, Fire Plugs, Apparatus, or any of the works already placed, erected, or established by the said Saint John Water Company, or which may be so placed, erected or established by the said Company, prior to the transfer of the interest and estates of the said Company to the said Mayor, Aldermen and Commonalty, or which may hereafter be placed, erected and established, and made under the provisions of this Act, or otherwise howsoever, by the said Mayor, Aldermen and Commonalty, for the purpose of supplying the said City and its vicinity with water, any such person shall be judged guilty of Felony, and every such person so offending and being thereof lawfully convicted, shall be liable to the punishment prescribed for Felony in an Act made and passed in the first year of the Reign of His late Majesty King William the Fourth intituled "An Act for improving the administration of Justice in criminal cases."

XVII. And be it enacted, That this Act shall not go into operation nor take effect, until the same shall be accepted and consented to by the said Mayor, Aldermen and Commonalty of the City of Saint John, by a Resolution entered in the minutes of the proceedings of the Common Council within two months after the passing of the same, and also by the said Saint John Water Company, such acceptance and consent of the said Company to be signified by a Resolution entered on their Book of Minutes and passed at some General Meeting of the Stockholders thereof, to be held within three months after the passing of this Act; at which Meeting all questions touching this Act, and all proceedings tinder the same may be decided by a majority of the votes of all the Stockholders then present, or represented by proxy, and the number of votes shall be in the proportion and according to the scale already established and provided by the Act of Assembly incorporating the said Water Company.