

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1853.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1853.

16 Victoria – Chapter 10

**An Act relating to the Public Debt of the City of Saint John. Passed 14th April 1853.**

Whereas a Suit is now pending in the Court of Chancery in this Province, in which Her Majesty's Attorney General, by and at the relation of John C. Littlehale, Esquire, and others, of Carleton, in the City of Saint John, John M'Lauchlan, of the same place, Shipbuilder, James Stackhouse, Senior, of the same place, House Joiner, Josiah Wetmore, Junior, of the same place, Esquire, and William C. Dunham, of the same place, Farmer, for and on behalf of themselves and all other the inhabitants of that part of the City of Saint John called Carleton, are the Complainants; and the Mayor, Aldermen and Commonalty of the City of Saint John, Hugh Johnston, John Robertson, Alfred Smithers, Thomas Merritt, William Wright, George Swinney, and Frederick A. Wiggins, are Defendants: And whereas the objects for which the said suit was instituted have been arranged by and between the parties thereto, and by and between the Honorable Robert L. Hazen, the Solicitor of the said Complainants, and the Honorable William B. Kinnear, the Solicitor for all the said Defendants, excepting the Defendant John Robertson, and by Duncan Robertson, Esquire, the Solicitor of the said Defendant John Robertson, that the said suit shall be discontinued; and in order to give effect to the terms,

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

1. The sum of twenty thousand pounds, and no more, shall be and is hereby made a charge upon and payable out of the common lands on the west side of the Harbour of Saint John, as granted by the Charter of the City of Saint John, bearing date the eighteenth day of May in the year of our Lord one thousand seven hundred and eighty five; and the residue of the Public Debt of the said City of Saint John shall be and is hereby made a charge upon and payable out of the common lands on the east side of the Harbour of the said City, as granted by the said Charter, and all other the real and personal estate of the said Mayor, Aldermen and Commonalty of the City of Saint John, and all other the general revenue and income of the said Corporation, arising from any source whatever, except special grants of the Legislature and funds specially raised and appropriated by law.

2. The Chamberlain of the City shall keep a separate account of the rents, issues and profits of the common lands of the west side of the Harbour, which shall be rendered by him to the Common Council annually on the thirty first day of December, without any charge for the same; the said rents, issues and profits of the said common lands on the west side of the Harbour, after deducting the legal charges incident to the collection of

the said rents, issues and profits, and management of the said lands, shall be applied by the Common Council of the City to the payment of the interest half yearly of the said sum of twenty thousand pounds, or so much thereof as may remain due, at such rate, not exceeding six per cent, per annum, as shall be paid on the remainder of the said Public Debt; and the residue of such rents, issues and profits shall be applied by the Common Council of the City to the sole improvement, benefit and advantage of that part of the City lying on the west side of the said Harbour, and of the inhabitants thereof, forever; provided always, that no appropriation of the residue of such rents, issues and profits of the said common lands on the west side of the Harbour, or of any part thereof, and no order or act of the Common Council for laying out, leasing, or otherwise disposing of any of the said common lands on the west side of the Harbour not yet laid out, shall be binding or valid, unless made with the assent of not less than three Members of the Common Council, and representing Wards on the west side of the Harbour.

3. The common lands on the west side of the Harbour shall extend to the present line of low water mark, and the Common Council of the said City are hereby required, within six months after the passing of this Act, to establish and define by actual survey such line, as the line of low water mark, by such metes, bounds and marks as shall be most effectual for that purpose, and a just description of such line, and a plan thereof, shall be filed in the office of the Common Clerk of the said City, and that such line so established shall forever after be the boundary of the common lands on the west side of the Harbour.

4. The general revenues of the said City, and all other sources of income of the said Mayor, Aldermen and Commonalty of the City of Saint John, and all rents, issues and profits arising from the sale or other disposal of the said common lands on the east side of the Harbour, or from their other real and personal estate, shall be applied as follows, viz:— To the payment of the salaries of the Public Officers of the said City as now established, and all requisite contingencies and expenses of management, and also all expenditures necessary to the maintaining and keeping in repair the public property of the City, and all other usual and proper exigencies of the public service, and after payment thereof, to the payment half yearly of the interest on the said residue of the said debt not charged on the west side of the said Harbour; and the balance, after such payments, shall be applied in liquidation of that portion of the debt charged on the east side.

5. The Corporation shall have the right to retain and use, without any charge, such portion of the common lands on the west side, as may be necessary for ferry landings, coal sheds, and other public conveniences for the full accommodation and use of the ferries, and the public resorting thereto.

6. As soon as the Public Debt now due by the Corporation shall be paid off and satisfied, all their revenues affected by this Act shall be applied as directed by the Charter of the said City.
7. The sum of two hundred and fifty pounds shall be paid out of the general revenues of the City towards the costs, fees and expenses incurred by the Complainants in prosecuting said suit in Chancery, the balance to be paid out of the rents of the common lands on the west side; the costs, fees and expenses incurred by the Defendants in defending the said suit, shall be paid out of the rents of the common lands on the east side of the Harbour and the general revenues.
8. In any action or suit brought or to be brought by the Mayor, Aldermen and Commonalty of the City of Saint John, for any lands, tenements or hereditaments to them granted by the Crown, or the rents, issues and profits thereof, or upon any covenant, condition, matter or thing contained in any lease, grant, deed, or assurance by them made of any such lands, tenements or hereditaments, no Defendant or Defendants other than the Trustees or Mortgagees, or their heirs or assigns, shall be permitted to set up or give in evidence a certain Trust Deed or Mortgage, bearing date the twentieth day of September in the year of our Lord one thousand eight hundred and forty two, and made between the said Mayor, Aldermen and Commonalty of the City of Saint John, of the one part, and Hugh Johnston, John Robertson, Alfred Smithers, Thomas Merritt, and William Wright, of the other part, and registered in the Registry Office of the City and County of Saint John on the twenty first day of September in the year of our Lord one thousand eight hundred and forty two, or any other deed or conveyance made and executed of the said lands or tenements, or any of them, by any party whatsoever to the said Trustees, or either of them, to bar the right of recovery or to defeat the title of the said Mayor, Aldermen and Commonalty of the City of Saint John, their successors or assigns, in any such action or suit, any law or custom to the contrary notwithstanding.
9. Nothing in the Act made and passed in the ninth year of Her present Majesty's Reign, intituled *An Act relating to the Public Debt of the Corporation of the City of Saint John*, shall be held or taken to authorise any assessment upon the inhabitants of Carleton, on the west side of the Harbour, unless for the purpose of making good any deficiency which may arise in the payment of the interest made chargeable on the west side by the provisions of this Act.