

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 37

An Act to amend the Charter of the City of Saint John, and certain Acts of Assembly relating to the local government of the said City. Passed 3rd May 1853.

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

1. So much of the Charter of the City of Saint John as is inconsistent with, or contrary to the provisions of this Act, and also a Bye Law of the Corporation of the said City, passed on the twenty fifth day of February one thousand eight hundred and fifty, intituled *A Law to regulate the Elections of Aldermen, Councillors and Constables in the City of Saint John*; and also the following parts of Acts of Assembly, that is to say:—The third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth sections of an Act passed in the third year of the Reign of King William the Fourth, intituled *An Act for more effectually repairing the Streets and Bridges of the City of Saint John*; the first, second, sixth and ninth sections of an Act passed in the sixth year of the Reign of Queen Victoria, intituled *An Act for the amendment of the Charter of the City of Saint John*; the second, third, fourth, fifth, twenty first, twenty second, twenty third, twenty fifth and thirtieth sections of an Act passed in the twelfth year of the same Reign intituled *An Act in further amendment of the Charter of the City of Saint John*; the ninth, tenth and twenty first sections of an Act passed in the thirteenth year of the same Reign, being a Local Act, intituled *An Act relating to the Police Force established in the City of Saint John, and to provide for the relief of Debtors confined in the Gaol of the said City for small sums, and making provision for the levying and collecting of assessments in the said City, and other purposes*, are hereby repealed; save and except so far, however, as relates to any appointment, election, bye law, ordinance, rule, regulation, rate, tax, act, deed, matter, action, suit, proceeding, or thing heretofore had, done, passed or made, or now pending, in progress and undetermined, under and by virtue of the same or either of them, which shall remain in full force, and be respectively observed and fulfilled, proceeded with and determined, unless as is hereinafter otherwise directed, in the same manner and to the same effect and purpose as if the said parts of the said Charter and Acts had not been repealed.
2. There shall be elected annually by the freemen and freeholders of the said City, on the first Tuesday in April after the present year, for each respective Ward, one Alderman, one Councillor, and one Constable, as heretofore; and the said Alderman, Councillor and Constable shall have all the powers, and be subject to all the duties of their respective offices, as provided by the Charter, or any Act of Assembly, or any Bye Law of the Corporation; and on the first Tuesday in May annually in every future, year, the said freemen and freeholders shall elect the Mayor of the said City.
3. No person shall be qualified to vote at any such election for Mayor, Alderman, Councillor or Constable, unless he be at the time of the election a British subject, and also a freeman and

inhabitant, or a freeholder, of the City; and no person shall be qualified to vote as a freeman unless he shall have been a registered freeman at least three calendar months before the day of the election, and shall have actually resided in the City for one calendar month next preceding such election; and no person shall be qualified to vote as a freeholder unless he shall have been assessed on real estate at the last general assessment of City rates preceding such election; and that the Common Clerk of the said City do, at least six days before the day of election, prepare alphabetical lists of the freemen of the said City, to be taken from the records of City freemen, and of all persons assessed on real estate, to be taken from the last general assessment list filed in the Common Clerk's office, and furnish copies of the same to the Commissioners appointed to hold the election, at least twenty four hours before the time appointed for holding the same, which list shall be open for public inspection at the Common Clerk's Office for six days previous, during which time any person having been assessed as aforesaid, and whose name may have been omitted, shall upon satisfactory proof of the same rendered in writing to the Common Clerk, have his name inserted thereon; which said lists, so furnished, shall be for all the purposes of accepting or refusing the ballot of any person wishing to cast the same, a register of voters; provided always, that any person entitled to real estate by descent or devise, whose title may have accrued not less than three calendar months before the day of election, may have his name entered upon such list although he may not have been rated, on producing proof to the satisfaction of the Common Clerk, of his being entitled to be entered on the list under this proviso; and no person whosoever, whether freeman or freeholder, shall be entitled to vote unless he shall have paid previous to the day of election all rates, taxes and assessments imposed on him during the year next preceding the election.

4. No person shall be qualified to be elected Mayor or Alderman, unless in addition to the qualifications necessary to a voter, he shall at the time of his election be possessed, as owner thereof, of real or personal property, or both together, within the said City, over and above all incumbrances whatsoever, to the extent of at least two hundred and fifty pounds.

5. No person shall be qualified to be elected, or to be or sit as Mayor, Alderman or Councillor during such time as he shall hold any office or place of profit in the gift or disposal of the Common Council, the emoluments of which are paid out of the funds of the City, or during such time as he shall have directly or indirectly, by himself or partner, any share or interest in any contract or employment with, by or on behalf of the Corporation; provided that such disqualification shall not arise from any person being a shareholder in any Corporate Company having a contract with the Corporation, or any share or interest in any lease, sale or purchase of Corporation lands, tenements or hereditaments, or any agreement for any such lease, or for the loan of money; and that no Mayor, Alderman or Councillor shall receive into his hands any moneys for or on account of any contract, work or employment made, done or performed, by or on behalf of, or by direction of the said Corporation, but that all moneys due by the Corporation on any such account, shall be paid by the Chamberlain of the City to the person or persons who shall actually have done such work, and shall be entitled to such moneys by, under or for such contract, work or employment.

6. In respect of any election for Mayor, Alderman, Councillor or Constable, the following regulations shall be observed, viz:—Each elector, if voting as a freeman, shall give his vote in the

Ward wherein he resides; and if voting as a freeholder, shall give his vote in any Ward where such freehold is situate.

7. The Election shall be conducted in each Ward before a Commissioner, not being a member of the Common Council, to be appointed for each Ward by the Sheriff, Recorder and Common Clerk, or any two of them, at least six days before the day of election; and in case of the death, illness, absence, or refusal to act, or resignation of any such Commissioner, another or others may be appointed in like manner at any time previous to the election which such Commissioner may be appointed to hold in the stead of such Commissioner; and in case of any election to supply any vacancy, such election shall be held on a day to be appointed by the Recorder or by the Common Clerk, and by a Commissioner to be appointed as hereinbefore provided.

8. Of the time and place of holding every election respectively, and of the names of the respective Commissioners so to be appointed for holding elections, public notice shall be given by and under the hand of the Recorder or Common Clerk, by publishing such notice in one of the Newspapers published in the City, or by handbills posted up in the respective Wards, at least six days immediately preceding the day for holding such election.

9. Each Commissioner, before entering upon his duties, shall be sworn before a Justice of the Peace to the faithful discharge thereof.

10. The Commissioner at each Poll shall appoint a Poll Clerk, who shall be sworn before such Commissioner to the faithful discharge of his duties.

11. Every candidate for the office of Mayor, Alderman, Councillor or Con, stable, shall be nominated by two qualified electors, who shall subscribe a declaration of such nomination, and file the same in the Common Clerk's Office at least twenty four hours before the commencement of the election, and no vote shall be counted except those given for one or some of the persons so nominated; and the names of all the candidates nominated for each office shall be posted up at the respective Polling places in each Ward.

12. The Commissioner in each Ward respectively, shall receive, sort, count and declare all the votes in the Ward.

13. The Poll Clerk shall enter on a Poll List the name of each elector voting, and any other fact the Commissioner may require him to note down.

14. The votes shall be given at the elections by ballot.

15. The ballot shall be a paper ticket, which shall contain in writing or printing, or partly written and partly printed, the name or names of the person or persons for whom the elector intends to vote, and the office he is intended to fill.

16. Each voter shall deliver his ballot, folded op, to the Commissioner, together with a tax receipt, signed by the Collector of Taxes in the City, who is hereby required to furnish the same on demand, under the penalty of five pounds for each refusal, stating that the person therein named has paid all rates, taxes and assessments imposed on him during the year then next preceding, and no ballot shall be received by the Commissioner without such receipt.

17. The Commissioner shall ascertain that the ballot is single without reading it, and then shall deposit it without delay in a ballot box, and should he discover the same not to be single, the ballot shall be immediately rejected, and the party who tendered the same be deprived of his right of voting at that election.

18. No ballot shall contain more names than there are persons to be chosen in office; if in sorting the votes it shall be found that a ballot is double, or that two or more ballots are enclosed in the same cover, or if the name of the same person be more than once entered for the same office on the same ballot, or if any ballot contain more names than legal, all such ballots shall be rejected.

19. The box shall be opened and the ballots counted by the Commissioner in the presence of the Candidates, if they choose to attend.

20. The poll for the Mayor or Aldermen, Councillors or Constables, shall be opened in each Ward at eight o'clock in the forenoon, and shall continue open till four o'clock in the afternoon of the same day; and the name of each elector voting shall be written in poll books to be kept at such election by the Poll Clerks; and immediately after the final close of the poll, all the votes given in the Ward shall be sorted, counted, and publicly declared by the Commissioner, and in making such declaration and record the whole number of votes or ballots given, in shall be distinctly stated, together with the name of every person voted for, and the number of votes given for each person respectively, and for what office; and the Commissioner shall close and seal the poll book, and the receipts delivered in by the electors, and deposit the same so enclosed and sealed with the Common Clerk, before ten o'clock in the morning of the next day, to be by him laid before the Common Council at their first meeting thereafter; and the said poll book shall then be opened, and the Common Council shall examine all the returns from the respective Wards, and shall declare the persons having the majority of votes to be duly elected.

21. In case there shall be an equal number of votes polled for two or more persons, a new election shall be held in respect of such persons to determine the same.

22. Any person knowingly or wilfully voting when not entitled to vote; any person fraudulently putting in more than one ballot when voting, or voting in an assumed name; and any person who shall vote oftener than he is entitled to, shall pay a fine of two pounds.

23. Every person desirous of voting at any election, shall, before his vote be entered on the Poll List, if required by the Commissioner, or by any qualified elector, take the following oath, which oath the Commissioner is directed to administer:—"I do swear that I am a British subject, that I am qualified by law to vote at this election in this Ward, and have not before voted at this election

within this Ward.—So help me God.” And whenever a vote shall be so sworn, the Poll Clerk shall mark “sworn ” opposite his name in the Poll List.

24. If any person shall knowingly swear falsely, he shall be guilty of perjury, and subject to the penalties thereof.
25. The Commissioner shall have, for the purposes of the election, and during the time of holding the same, all the power and authority of a Justice of the Peace.
26. The respective Aldermen, Councillors or Constables, duly elected, shall be sworn into office on the third Tuesday in April in every year, as provided by the Charter.
27. The Mayor shall be sworn into office before the Recorder or Common Clerk, as soon as conveniently may be after his election shall be declared by the Common Council, and shall continue in office until he resign or die, or become disqualified as before mentioned, or another shall be duly elected and sworn in his stead.
28. Every person duly qualified, who shall be elected to the Office of Mayor or Alderman, shall accept the office or forfeit to the Corporation the sum of twenty five pounds.
29. If an extraordinary vacancy occur in the office of Mayor, Alderman or Councillor, an election for such vacancy shall be ordered and conducted in all respects in the same manner as ordinary elections under this Act.
30. All special vacancies of office from death, disqualification, resignation or other cause, shall be declared by the Resolution of Common Council, before proceeding to fill up the vacancy.
31. The Common Council of the said City are hereby authorised and required once in every year in the month of April, including the present year, to determine and direct what sum of money, not exceeding two thousand pounds in any one year, shall be raised and levied in the said City for the purpose of repairing, altering and maintaining the streets, squares, bridges and highways in the said City, and shall make a rate and assessment upon the said City of such sum in the present year, and in each and every succeeding year, besides the charges and expenses of assessing and collecting, and shall direct their Warrant for such purpose to the Assessors of Taxes in the said City, and the same shall be assessed by a rate of two shillings and six pence upon the poll of all male inhabitants of the said City of the age of eighteen years and upwards, not being paupers, and the residue by a rate in just and equal proportion upon the real and personal estate and incomes of such inhabitants, and shall be levied, collected and paid in the same manner as any County rates for public charges can or may be levied, collected and paid under and by virtue of any laws which at the time of making such assessments may be in force for assessing, levying and collecting of rates for public charges; and when collected, shall be paid into the hands of the Chamberlain of the City, for the purposes of repairing, altering and maintaining the streets, squares, bridges and highways in the City of Saint John, and for no other use or purpose whatsoever.

32. The Common Council may appoint from time to time, and remove at pleasure, one or more Commissioners of Streets for the said City or any district thereof, and by any bye laws, orders, regulations or resolutions of the Common Council, may direct and appoint the times, places, districts, and mode of exercising the duties required of such Commissioner or Commissioners.

33. The Chamberlain shall keep separate and distinct Accounts for each side of the Harbour, of all moneys received by him in respect of such assessments, and shall apply and appropriate the same from time to time upon the orders of the Common Council, and as they shall direct, for the purposes of this Act; and the amount raised on either side of the Harbour shall be expended for the separate and exclusive benefit of that side, and the Chamberlain shall in each and every year make out full, complete and detailed Accounts under oath to be taken before a Justice of the Peace, made up to the thirty first day of December, with vouchers, of all moneys received and paid by him on these Accounts, and shall without delay thereafter file such Accounts and vouchers in the Common Clerk's Office.

34. Every such Commissioner of Streets when thereunto required by the Common Council, shall make out and deliver to the Assessors a list or lists of all persons in his district liable to be assessed for Streets under this Act, which list or lists shall be filed in the Common Clerk's Office by the Assessors, together with their assessment list, so soon as the same shall be made.

35. Any person when called upon by any Commissioner of Streets, or by any other person appointed by the Common Council to assist such Commissioner in this behalf, shall within twenty four hours give and render to such Commissioner or other person as aforesaid, a particular account and statement in writing, containing the names of all persons who may be in his or her employ, or who may be resident in the house kept or occupied by him or her, and who may be liable to be assessed for Streets; such statement to contain not only the names of persons belonging to his or her family, but also the names of any boarders, lodgers, or domestic servants, who may be liable as aforesaid; and if any person shall neglect or refuse to render such account or statement, he shall forfeit and pay the sum of five pounds, to be sued for and recovered in the name of the Chamberlain, in the like manner and with the like effect as any penalty imposed by any law of the City may be sued for and recovered.

36. The Common Council are authorised to make such bye laws as may be necessary for perfecting the conducting of the Elections by Ballot in accordance with the intention of this Act.

37. Nothing in this Act contained shall affect the election of the Mayor of the City of Saint John for the present year, which shall take place as if this Act had not been passed, in all respects as directed by *An Act in further amendment of the Charter of the City of Saint John*, passed in the twelfth year of Her present Majesty's Reign; and provided that the assessment under the thirty first section of this Act may be directed for the present year at any time before the twentieth day of May; and nothing in this Act contained shall be held to apply to the election to be held in Wellington Ward for the present year; and in case any Mayor, Alderman, Councillor, or Constable, shall die, remove from the City, or resign his office, or in case of any vacancy occurring either by the election of any Aider man or Councillor to the office of Mayor, or in any other manner, before

the first Tuesday in April next, the election for supplying such vacancy shall be held and conducted in every respect as if this Act had not been passed.

38. Every Bye Law or Ordinance made by the Corporation shall be forthwith transmitted to the Lieutenant Governor, who by and with the advice of the Executive Council, shall within three months from the receipt thereof disallow or confirm the same, and all bye laws and ordinances shall be in force until such disallowance shall be transmitted to and received by the Common Clerk.