

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1858. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1858.

21 Victoria – Chapter 47

An Act to authorize and provide for the opening of Mount Pleasant Street at "Crouchville," in the Parish of Simonds, in the County of Saint John. Passed 6th April 1858.

Section.	Section.
Preamble.	
1. Meeting for election of Commissioners: Oath of office.	6. If unpaid, Sheriff may be directed to levy, &c.
2. Vacant Commissionerships, how supplied.	7. Accounts with vouchers to be kept, exhibited, and finally filed.
3. Authority to call for tenders, make contracts, and form street, &c.	8. Expenditure of surplus money.
4. Expense to be estimated and assessed.	9. Liability of Commissioners.
5. Assessment to be published, and form a lien on the land until paid;	

Whereas it is desirable that the tract or space of land fifty feet wide, laid out and designed for a Street, and recorded and known as 'Mount Pleasant Street,' in Crouchville, so called, in the Parish of Simonds, in the County of Saint John, running from Little River Road in the same Parish in a northeasterly direction, between two rows or tiers of lots fronting thereon, should be opened up and completed as a good and sufficient public Street, with sidewalks the whole length thereof, for the benefit and at the expense of the proprietors of the said lots of land;—

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

1. That it shall be lawful for John Smith and Robert Stubs, being owners of lots fronting on the said Street, or for the survivor of them, by notice under his or their band, made within thirty days after the passing of this Act, and published thereafter for one fortnight in two or more Newspapers in the City of Saint John, to call a general meeting of the owners and proprietors of the said lands at some convenient time and place mentioned in the said notice; at which meeting three Commissioners may be elected by a plurality of the votes of such of the said owners and proprietors as are present thereat; provided always, that at such meeting there shall be present a sufficient number of such owners and proprietors as in the whole to represent at least one hundred and twenty of the lots in said tract; which Commissioners, before they enter on the performance of their duties under this Act, shall severally take and subscribe an oath or affirmation before some Justice of the Peace in and for the City and County of Saint John, faithfully to discharge such duties; and any such Justice is hereby authorized and required to administer such oath or affirmation, and file the same forthwith in the office of the Clerk of the Peace for the City and County of Saint John; and no Commissioner shall be competent to act until such oath or affirmation shall be taken and filed as aforesaid.

2. After such election, in case of the decease, or neglect or refusal to act of either of the said Commissioners, the other or others of them shall call another meeting of the same parties on one week's similar notice, at which meeting a substitute or substitutes shall be in like manner appointed; and the Commissioners shall elect one of their number Chairman.

3. Immediately after the election the said Commissioners shall advertise for tenders for the opening up, levelling off, and completing as .a good and sufficient public street or thoroughfare, with sidewalks, for all the purposes of passing and repassing, and of travel by and along the same, the said Street called 'Mount Pleasant Street,' throughout and along the whole length thereof, and for the construction of any Bridges or other works incidental to that purpose, in one or in more contracts as may seem best to the Commissioners, who shall accept such tenders, and enter into such contracts or agreements as they think necessary and judicious, or most expedient and beneficial for the purposes aforesaid; and are hereby invested with full power and authority in their joint names to require and take any securities for the performance of any such contracts or agreements; and to take such steps as may become necessary in; the law to enforce the same; and to cause the whole of the said Street to be made and finished effectually, as aforesaid, as soon as the same can reasonably be done.

4. As soon as the tenders have been opened the Commissioners shall make an estimate of the amount of money requisite for the finishing of the said Street as aforesaid, and all reasonable and necessary incidental expenses thereof; and for the purpose of raising such money shall at once levy and declare an assessment upon each and all of the owners and proprietors of the lands bordering on the said Street on either side, in such way that each lot or tract of land shall bear a share of the said assessment, proportionate to the width or frontage on the said Street of such lot or tract of land respectively; and if such assessment shall be found insufficient, such other assessment or assessments shall be made from time to time as shall be found necessary.

5. As soon as any such assessment shall be made, a statement of the amount thereby declared to be assessed against each proprietor, shall be made out and left at the office of the Chairman for inspection; which statement shall show expressly the number of feet width or frontage for which each proprietor shall be assessed; and public notice thereof shall immediately be given by advertise men under the hands of the Commissioners, published for one month in two or more Newspapers in the said City, and from the first day of such publication the assessment shall be a lien and charge upon the lands assessed respectively until paid.

6. At the expiration of such one month's notice, if any proprietor shall not have paid to the Commissioners, or one of them, the amount that he or she may be assessed as aforesaid, the said Commissioners shall and may within ten days thereafter, by warrant under their hands and seals, order and direct the Sheriff of the City and County of Saint John to levy the said assessment by a sale of so much of the said land, or such of the said lot or lots of the party whose assessment shall be so in arrears, as the said Commissioners shall think sufficient for that purpose; and the Sheriff is hereby authorized and required to proceed under any such warrant, which shall have in his hands, as against the land or lot or lots so mentioned, the same force and effect as any execution issued

out of the Supreme Court; and the sale thereunder shall be attended with the same formalities, and subject to the same rules and restrictions in every respect, except that the same shall be advertised for three months only instead of six; and after deducting poundage and other lawful expenses, the Sheriff shall pay over the amount so to be levied to the Commissioners, and the balance to the party lawfully entitled thereto.

7. The Commissioners shall keep regular accounts and vouchers of and for all moneys received and disbursed by them under the provisions of this Act, and exhibit the same at all reasonable and seasonable time to any parties interested who may require to see the same; and after the completion of the said work shall file the same with any other papers in their possession connected with their duties under this Act, in the office of the Clerk of the Peace aforesaid.

8. Any of the said moneys that may chance to remain in the hands of the Commissioners over and above the cost of the said work, shall be expended by them in the repair of the said Street and the Bridges thereon, as may be necessary from time to time, and shall be accounted for after such expenditure in the same manner as in the last preceding Section required; and the said Street and the Bridges thereon shall be thenceforth kept in repair at the expense of the owners for the time being of the said lands, to be assessed for, raised and applied as may be hereafter enacted in that behalf.

9. The Commissioners shall not be answerable the one for the other of them, nor for the fault or misdoing of each other; and in case of any default, embezzlement or misapplication of the moneys received by any Commissioner by virtue of this Act, and in case after being required to do so by notice in writing from any party interested, any Commissioner shall neglect to render and file such accounts, vouchers and papers as hereinbefore required, such Commissioner shall be liable to the same pains and penalties as any Commissioner of Highways is now liable by law for similar neglect or refusal, default or embezzlement; and any party aggrieved or injured by any lawful exercise by the said Commissioners, or either of them, of the powers in them vested by this Act, may have his action on the case for damages against such Commissioner or Commissioners as the case may be, in any competent Court of Record in this Province, or wherever else the said Commissioner or Commissioners shall then reside.