

Laws of His Majesty's Province of Upper Canada, passed in the year 1857. Toronto: Stewart Derbshire & George Desbarats, 1857.

20 Victoria – Chapter 41

The Lower Canada Municipal and Road Amendment Act of 1857. Assented to June, 1857.

Whereas it is desirable that further changes should be made in the Lower Canada Municipal and Road Act of 1855, as amended by the Act of 1856, with a view of rendering its working less expensive, and for other purposes of less importance: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Interpretation.

I. For the purposes of this Act the expressions following, wherever they may occur, shall signify respectively as follows, that is to say:

1. The words "Act of 1855," shall be deemed to apply to the Lower Canada Municipal and Road Act of 1855, the words "Act of 1850," shall be deemed to apply to the Lower Canada Municipal and Road Amendment Act of 1856, the words "the said Acts," shall be deemed to apply to the two Acts cited in this section, and the words "said Act," shall be deemed to apply to the Act which shall have been last referred to in any section in which the words "said Act" shall occur;

2. This Act and the said Acts shall be deemed to form but one and the same Act, except in so far as certain parts of the Act of 1855, have been repealed by the Act of 1850, and by this Act and certain parts of the Act of 1850, have been repealed by this Act;

3. The Act of 1856, shall be cited as *The Municipal and Road Amendment Act of 1850*, and this Act shall be cited and known as *The Municipal and Road Amendment Act of 1857*.

Annexation of Parts of Parishes and Townships, and Extra-Parochial Places.

II. 1. Notwithstanding the provisions of the tenth paragraph of the thirty-third section of the Act of 1855, the Municipalities to which it relates, shall each continue to form a distinct Municipality, unless its limits shall have been or shall hereafter be changed in virtue of any other provision of the said Act;

2. Notwithstanding the provisions of the said Acts, the following places shall each constitute a distinct and separate Municipality from and after the first January, one thousand eight hundred and fifty-eight, that is to say:

The Parish of St. Germain, in the County of Drummond, including the sixth, seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth ranges of the Township of Grantham, under the name of the Municipality of the Parish of Saint Germain; the remainder of the Township of Grantham with the Townships of Wendover and Simpson under the name of the Municipality of Grantham, Wendover

and Simpson; the north part of the Township of Winslow, in the County of Compton, under the name of the Municipality of North Winslow, the south part of the said Township under the name of the Municipality of South Winslow; and the limits of the two Municipalities last mentioned shall be fixed and determined by a By-law of the County Council; and the extent of ground designated in a Proclamation inserted in the number of the *Canada Gazette* published by authority under date of the seventh day of February, one thousand eight hundred and fifty-seven as being intended to form a separate Municipality after the first day of January next, under the name of the Corporation of the Village of St. Césaire, shall be detached from the Municipality of the Parish of St. Césaire, and shall form a distinct and separate Municipality under the name aforesaid from the passing of this Act, and the elections for the choice of Municipal Councillors of the said Corporation of the Village of St. Césaire may take place in the manner provided by law, on the first Monday of the month of July next;

3. Notwithstanding the provisions of the fifth paragraph of the thirty-third section of the Act of one thousand eight hundred and fifty-five, any parish of which an incorporated town or village shall form part, shall be designated by the name of the Municipality of the parish of _____ (insert the name of the Parish) provided that the population of the said parish, not included within the limits of such town or village shall exceed three hundred persons.

Powers Common to All Councils.

III. In addition to the powers conferred upon them by the said Acts, every Council shall have power from time to time to make, amend or repeal one or more By-laws for all or any of the purposes following:

1. For limiting the number of its general Sessions to not less than one in each year for County Councils, and to not less than four in each year for Local Councils;
2. For obliging any persons who may have in their possession any maps, plans, titles, writings or other documents relative to any road, street, lane, public place or other property in the Municipality, to give communication thereof to the said Council, or to any of its officers, and to permit: such officer or other person appointed for that purpose by the principal officer of the Municipality, to take a copy thereof;
3. Every Council shall be empowered by resolution to impose and levy upon the parties interested in any work undertaken for the benefit of the Municipality, or for any part of the inhabitants of the Municipality, a special tax to provide for the payment for such work, although the performance thereof may not have been preceded or followed by the formalities required by law.

Persons not Competent to Accept or Exempted from Accepting Office as Members or Officers of Municipal Councils.

IV. 1. Every Council shall be empowered to authorize any one of its members to retire from office and to replace him in the manner provided by the Act of 1855;

2. Any person, who not being obliged to accept the office of Municipal Councillor, has or shall have nevertheless accepted it, shall be empowered to retire at any time from the said office, upon giving public notice in writing to the Secretary-Treasurer of the local Council of which he was a Member, and he shall be replaced in the manner prescribed by the said Act in cases of decease;

3. When the person who shall thus have retired from office is at the same time the Warden of the County, the Secretary-Treasurer of the Local Council shall, within eight days after the receipt of the said notice, transmit a copy thereof to the Secretary-Treasurer of the County Council, and so soon as a Mayor shall have been elected to replace the person retiring from office, the County Council shall proceed to the election of a new Warden in the manner prescribed by the said Act.

Powers Common to All Local Councils.

V. 1. In addition to the powers conferred upon them by the Acts aforesaid, every Local Council shall be empowered to accept from the School Commissioners of any School Municipality situated within the limits of the Local Municipality, the Collection Roll for school rates, or a certified copy thereof, and may by resolution declare that the collection of the rates shall be made at the same time and in the same manner as that of the Municipal assessments; and any Secretary-Treasurer charged with the collection of such rates, shall hand over the entire amount so soon as he shall have collected them, to the Secretary-Treasurer for schools entitled to receive the same.

2. Every Local Council shall have power from time to time to make, alter or repeal By-laws for the granting of licenses to pedlars and other travelling traders and artists and for preventing them from carrying on their traffic or practising their art without being licensed thereto;

3. The fourth paragraph of the forty-second section of the Act of 1855 is hereby repealed, and hereafter the ferries over any river, stream or water, the two banks of which are not situated in the same County (excepting the ferry between the City of Quebec and the Parish of Notre-Dame de la Pointe-Levi, and the ferries between the City of Montreal and the Parish of Longueuil,) shall be under the control of the Local Municipalities situated upon such river, stream or water; and each Council upon each shore, shall, with respect to the regulation of any such ferry as far as the middle of such river, stream or water, have the same power as is conferred upon it by the fifth paragraph of the fifteenth section of the said Act, with respect to all other ferries under its control;

4. All the provisions of the Act passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to regulate ferries beyond the Local limits of the Municipalities in Lower Canada*, inconsistent with the provisions of the preceding paragraph of this Act, are hereby repealed;

5. Every Local Council shall have power to order by resolution, that there be kept a Register of all the *Procès-Verbaux* and By-Laws relating to roads and bridges in the Municipality; And whenever any such Resolution shall have been adopted, the Secretary-Treasurer shall, with all diligence, collect all the *Procès-Verbaux* and By-Laws in force in the Municipality; shall copy them into a Register to be kept by him for that purpose; shall certify the correctness of the Register, shall deposit it in his office amongst

the Records of the Council, and shall give Public Notice of the deposit of the said Register as soon as it shall be made;

6. All new *Procès-Verbaux* and By-Laws relating to roads or bridges, made after the deposit of the Register shall also be inserted therein;

7. Any rate-payer in the Municipality shall be entitled to have access to the said Register and to examine the same during office hours;

8. And after the expiration of one month from the deposit of any such Register, the publicity thereby given to the said *Procès-Verbaux* and By-Laws shall be held to be sufficient notice to the persons bound to perform any work or to pay any money by virtue of such *Procès-Verbaux* and By-Laws; and it shall not be necessary to give any further notice to such persons in order to compel them to fulfil their said duties;

9. Every such Register certified by the Secretary-Treasurer shall be authentic; any certified copy or extract from any such Register shall also be authentic; and the tenor of any such *Procès-Verbal* or By-Law so registered, may be proved by production of the Register by the Secretary-Treasurer, or a copy or extract, therefrom duly certified by him;

10. Be it declared, that the Chief Officer of every Council has and always had a right to vote upon all disputed questions incapable of being decided without the votes of two thirds of the Members of such Council.

Local Councils.

Special Powers of Town and Village Councils.

VI. 1. Every Town or Village Council, in addition to the powers conferred upon such Councils by the Acts aforesaid, shall have power and authority from time to time to make, amend and repeal By-laws for the purposes following, that is to say:

For the establishment, construction and maintenance of Water Works, for the purpose of providing wholesome water for the inhabitants of the municipality; for taking possession of any lands that may be necessary for the purposes of such water works, or for the passage of the canals through which the water is to flow, whether such land be situated within or without the limits of the Municipality, and whether or not the proprietors consent to such taking possession; and for imposing and raising by tax whatever amount they may deem requisite to ensure the construction and maintenance of such water-works, provided that the amount of any indemnification for expropriation and for any damages caused by the construction or maintenance of any such water-works, shall be determined in the manner provided for similar cases by the Act of 1855.

Clauses of Quebec and Montreal Police Ordinances, Relating to Disorderly Persons Extended to Town and Village Municipalities.

VII. Be it declared, — That the clauses of the Ordinance relating to Police, specified in the twenty-fifth section of the Act of 1855, form and have always formed part of the said Act.

County, Superintendent, New *Procès-Verbaux*, Powers and Duties of Road Officers.

VIII. 1. Notwithstanding any of the provisions contained in the said Acts, no County Council hereafter shall have the right to appoint a County Superintendent, which Officer is hereby abolished;

2. Hereafter all the powers and privileges conferred upon the County Superintendent by the Acts aforesaid, shall be exercised in the manner following:

In respect of any County works, by the County Council;

In respect of any Local works, by the Local Council;

In respect of any work in which several Counties are interested, by the Warden of the Counties in which the work was originally proposed, and the said Warden shall summon a meeting of delegates, shall preside thereat, and shall have the casting vote heretofore conferred upon the Superintendent;

3. Every Council shall be empowered, by resolution to appoint a suitable person to prepare any *procès-verbal*, or fulfil any other duty heretofore devolved upon the Superintendent; any person so appointed for all or any of the purposes of such resolution, shall be deemed to be one of the Municipal officers, and shall be bound to fulfil all the formalities heretofore required from the Superintendent in similar cases, and shall be subject to the same penalties in cases of neglect;

4. Every Council shall be empowered to reject and also to homologate and amend any *procès-verbal* so executed and when any *Procès-verbal* or report shall have been rejected, it shall be lawful for the Council to order that the costs incurred be paid by the persons who shall have applied for such *Procès-Verbal* or report and to determine the amount of such costs;

5. Every Petition which, in accordance with the provisions of the said Act of 1855, should have been presented to the Superintendent, shall hereafter be addressed to the County Council, if it have reference to a work in which one or more Counties are interested, or to the Local Council, if it relates to any Local work, and shall be handed in to the Secretary-Treasurer, whose duty it shall be to present it forthwith to the Council, if it be then sitting, or at the next ensuing meeting, if it be not then sitting;

6. The Secretary-Treasurer of every Council shall perform the duties heretofore devolving upon the Superintendent, in virtue of the sixth and seventh paragraphs of the twenty-first section of the said Act of 1855, in so far as they concern the business of the Municipality within the limits of which lie exercises his powers;

7. All the provisions of the Acts aforesaid, which are inconsistent with those contained in this section are hereby repealed.

By Whom Roads Are to Be Maintained in the Absence of any By-Law or Proces-Verbal Regulating the Making and Maintenance Thereof.

IX. Notwithstanding, the provisions of the forty-fifth section of the Act of 1855, every Road Inspector in his division, may in the absence of any *procès-verbal*, By-law or valid Order to the contrary, cause the necessary works to be performed for the maintenance of the by-roads, and the front roads, to be made as by-roads by the manual labor of the parties bound to keep them in repair, in the proportions indicated in the said section.

Estimation and Valuation.

X. 1. Notwithstanding the provisions contained in the third paragraph of the sixty-fifth section of the Act of 1855, the Valuers shall designate, in the Valuation Roll, the real property, the proprietors of which are unknown, by the number and concession, or by the limits and boundaries, in case such real property shall have no number generally known, and instead of the name of the proprietor shall insert the word "unknown;"

2. The statement which every Railway Company is bound, to furnish in virtue of the provisions contained in the sixth paragraph of the section last referred to, shall be transmitted to the Secretary-Treasurer of the Municipality during the month of March in each year, and in default thereof the Valuers shall make the valuation of the properties belonging to the Company in the manner prescribed by the said paragraph.

Statute Labour.

XI. The first paragraph of the seventy-first section of the said Act of 1855, shall be construed as though the words "the proprietor or" had been inserted between the words "to which" and "the occupant" in the second line of the said paragraph.

Collection of Assessments, Duties of Secretaries and Other Officers in Respect Thereto.

XII. 1. Notwithstanding the provisions of the third paragraph of the seventy-fourth section of the said Act of 1855, any Local Council shall be empowered by resolution, to order the Secretary-Treasurer to make the General Collection Roll at any convenient period other than that mentioned in the said paragraph;

2. Notwithstanding the provisions contained in the eleventh paragraph of the seventy-fourth section of the said Act of 1855, every sale of lots or parcels of land, made under the authority of the said Act, shall hereafter be advertised to be held and shall be held in the place at which the sittings of the County Council shall then be held; and it shall be lawful for the Secretary-Treasurer to give notice of and cause to be sold the right of cutting timber for one or more years, on any lot of land whatever, instead of the land itself;

3. The provisions of the third paragraph of the twenty-fifth section of the Act of 1856, shall not apply to persons residing without the limits of the Municipality, and the said persons shall be bound to pay their assessments within thirty days after the public notice mentioned in the second paragraph of the same section, without it being necessary that any demand should be made upon them either personally or at their domicile;

4. The Secretary-Treasurer shall insert in the statement annually prepared by him, in virtue of the provisions of the tenth paragraph of the seventy-fourth section of the Act of 1855, all the other assessments, taxes and debts claimed either by the School Commissioners, or by the Inspectors of watercourses, fences and ditches, or by any other person who might have expended moneys for the payment of any such assessment, taxes or debts, or who might have caused work to be performed for others on any lot described in the said statement.

Sales of Property.

XIII. It shall not be lawful for the purchaser of any lot of land in virtue of the seventy-fifth section of the Act of 1855, to carry away any timber, during the first year he is in possession, from upon any lot of land so purchased, and it shall be the duty of the former proprietor, before he can recover possession of his lot of land so sold, in addition to what he is bound to pay by virtue of the fifth paragraph of the said section, to pay to the said purchaser all the taxes and the value of all public or vicinal work which he shall have paid or performed during the time the said land was in his possession;

2. Every Deed of Sale to a lot or parcel of land sold under the provisions of the said Acts or of the Municipal laws in force prior to one thousand eight hundred and fifty-five, which, during the interval between the sale thereof and the execution of such Deed, has been, or shall hereafter be, detached from one County and attached to another, shall be executed by the Secretary-Treasurer of the Council of the County in which such lot or parcel of land shall be at the time when the purchaser shall be entitled to receive such Deed, and shall exhibit to such Secretary-Treasurer the Certificate specifying the particulars of his purchase.

Recovery of Penalties.

XIV. 1. The second paragraph of the twenty-seventh section of the Act of 1856, shall hereafter be construed as though the words "sitting in the Municipality" had been inserted after the words "any Justice of the Peace," in the fifth and sixth lines of the said paragraph;

2. No Court of Justice shall hereafter be authorized to issue any writ of *certiorari* for the revision of any Judgment or proceeding whatsoever, rendered or adopted by any Justice of the Peace, or by any Commissioners' Court for the summary decision of small causes, in virtue of the provisions of the said Acts, or of this Act, but an appeal may be had from any such judgment, by *requête libellée* to the Circuit Court for the Circuit in which such judgment shall have been rendered;

3. Notwithstanding the provisions of the third paragraph of the seventy-seventh section of the Act of 1855, any Justice of the Peace may appoint his own Clerk in all suits brought in virtue of the said Acts,

but every Clerk so appointed shall, within three days after the date of the judgment rendered in any such suit, transmit to the Secretary-Treasurer of the Local Municipality, a duly certified copy of the proceedings therein; and every such Clerk shall be deemed to be a Municipal Officer in so far as relates to the duties imposed upon him by this Act;

4. And in order to remove all doubts with regard to what persons may sue and be sued in virtue of the said Acts, Be it declared and enacted as follows:

5. Every person of the age of twenty-one years, has and shall have a right to prosecute any Municipal Officer or other person, in virtue of the provisions of the said Acts and of this Act;

6. Any person who, on the requisition or with the sanction of any Municipal authority, Road Officer or Court of Justice, has or shall have performed or caused to be performed or paid for the performance of any work performed for the advantage of a Municipality, or a portion of the inhabitants of the same, shall have a right to sue the parties interested or the Municipality, before any Court having competent jurisdiction, for the recovery of his claim, even though the said work may not have been preceded or followed by the formalities required by law;

7. Any Municipality may sue for the recovery of any debt to them due before the Circuit Court of the Circuit in which the said Municipality is situate.