

Laws of Her Majesty's Province of United Canada, passed in the year 1856. Quebec: Stewart Derbyshire and George Desbarts, 1856.

20 Victoria – Chapter 101

The Lower Canada Municipal and Road Amendment Act of 1856. Assented to 1st July, 1856.

Whereas it has become necessary to amend certain parts of *The Lower Canada Municipal and Road Act of 1855*, and to remove doubts as to the interpretation of other parts thereof: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, declares and enacts as follows:

Interpretation.

1. The words “said Act” whenever they occur in this Act shall, notwithstanding the citing of other Acts therein, be understood to refer to *The Lower Canada Municipal and Road Act of 1855*.
2. This Act and the said Act shall be considered as forming but one Act, in the same manner as if all the provisions in this Act contained had originally formed part of the said Act, except only in so far as any parts of the said Act are hereby repealed.

Notices.

II. Nothing in the eighth and ninth sections or in any other part of the said Act shall prevent the Secretary-Treasurer of any Council or the County Superintendent from giving or certifying any notice either public or special required by the said Act as amended by this Act: and whenever any such notice is given by either of the said officers, the certificate of the publication or service thereof shall be attested under the oath of office of the person giving the notice, if he has taken such oath; if not, under a special oath, as required by the said Act.

Provisions Applicable to Municipal Councils Generally.

Corporate Seal.

III. Notwithstanding any thing contained in the eleventh section of the said Act, every Municipal Corporation shall hereafter have a common seal; and every instrument or document in writing which under the said Act should be signed by the Chief officer of any such Corporation shall be equally valid without his signature, provided the seal of the Corporation and the signature of the Secretary-Treasurer be affixed thereto, whether such instrument or document shall have been executed before, or after the passing of this Act.

Appointment of Officers.

IV. No appointment of any officer shall be held or declared to be void solely by reason of the same having been made after the period fixed by the said Act for making such appointment; and any act done by any person previous to the appointment of a Secretary-Treasurer to any Council which might or should have been done by such officer, if appointed, shall have the same force and effect as if the same had been done by such Secretary-Treasurer so duly appointed.

Power Common to All Councils.

V. Nothing contained in the ninth sub-section of the fifteenth section of the said Act, shall in any way relate to or affect any By-laws made or to be made under the authority of the Act passed in the sixteenth year of Her Majesty's Reign, intituled: *An Act to establish a Consolidated Municipal Loan Fund for Upper Canada*, as amended by the Act passed in the eighteenth year of Her Majesty's Reign, intituled: *An Act to extend and amend the Act to establish a Consolidated Municipal Loan Fund for Upper Canada, by applying the same to Lower Canada, and for other purposes*.

Persons Disqualified as Members or Officers of the Municipal Councils.

VI. The word "Judge," in the seventeenth section is hereby declared to apply and to have been intended to apply only to the Judges of the Court of Queen's Bench, the Superior Court, the Court of Vice Admiralty and the Circuit Court.

Powers of County Councils.

VII. Whenever a Registry Office has been established, or a public edifice for the use of the County Council has been provided, or is in course of construction, at a place appointed by By-law under the said Act for the sittings of such Council, such sittings shall continue to be held at the place so appointed, until otherwise determined by the Legislature.

VIII. In addition to the powers vested in County Councils under the said Act, every County Council shall have power to make, in the month of March of every year, By-laws for the following objects:

1. To prohibit and prevent the sale of all Spirituous, Vinous, Alcoholic, and intoxicating Liquors, or to permit such sale subject to such limitations as they shall consider expedient;
2. To determine under what restrictions and conditions, and in what manner the Revenue Inspector of the District shall grant Licenses to Shop Keepers, Tavern Keepers, or others, to sell such Liquors;
3. To fix the sum payable for each such License, provided that it shall in no case be less than the sum now payable therefor;

4. For the ordering and governing of all Shop Keepers, Tavern Keepers, or other retailers of such Liquors, in whatever place they may be sold, as they may deem proper and expedient for the prevention of drunkenness.

IX. Every County Council shall also have power and authority to revise, amend or annul all By-Laws, Reports or *Procès-Verbaux*, made, passed, approved or homologated by any Local Council within the County, except those made by Town or Village Councils, whenever the same are appealed from in the manner hereinafter provided:

2. Whenever a majority of the persons interested if they be less than ten in number, and whenever any number not less than five of the assessable inhabitants of a Local Municipality, or the County Superintendent of the County in which such Municipality is situate, shall, within fifteen days after the homologation of any Valuation-Roll or *Procès-Verbal*, or after the expiration, of the period within which such Valuation-Roll or *Procès-Verbal* is allowed to be revised and homologated by a Local Council, or within fifteen days after the first publication of any By-Law passed by the Council of such Local Municipality, if the By-Law, Report, *Procès-Verbal*, or Valuation-Roll, be made, passed, approved, homologated or published after the passing of this Act, otherwise within thirty days from and after the passing of this Act, file in the office of any County Council, a petition in appeal, praying for the revision or amendment of any such Valuation-Roll or *Procès-Verbal* or for the amendment or disallowance of any such By-Law, and setting forth the grounds or reasons for which such revision, amendment or disallowance is prayed for, it shall be the duty of the Warden of the County to convene a Special Session of the County Council and to give Public Notice of such Special Session; and every such Special Session shall be held within twenty days from the date of the filing of such petition;

3. The County Council at any such Special Session shall, after hearing the Petitioners and the Mayor, Councillors or Clerk of the Local Council, or any of such parties who may require to be heard, homologate without amendment, or amend and homologate as so amended, such *Procès-Verbal* or Valuation-Roll, and shall confirm, amend or disallow such By-Law as they may deem expedient, and every *Procès-Verbal*, Valuation-Roll or By-Law so amended, shall come into force as so amended from the day of the date of such amendment, and every By-Law so disallowed shall become null and void to all intents and purposes as if the same had never been passed;

4. But whenever any such County Council shall close such Special Session, or shall adjourn the same *sine die*, or for any period beyond ten days from the first day thereof without having decided upon the merits of the petition in Appeal, the *Procès-Verbal*, Valuation-Roll or By-Law, to which such petition relates, shall be considered as having been homologated by such Council;

5. Every By-Law of a Local Council when amended by the County Council, shall be published as so amended in the manner in the said Act provided, and every judgment of a County Council disallowing any By-Law passed by a Local Council shall be published in like manner;

6. No County Council shall have power to disallow or amend any By-Law passed by the Council of a Town or Village Municipality, nor shall the Mayor of any Town or Village Municipality vote or take any part in the proceedings before a County Council on appeals from other Local Councils;

7. Every County Council shall, at a special session to be holden for that purpose, at some period not later than the thirty-first day of December in the present year, and not later than the first day of June, in every other year during which new Valuation Rolls shall hereafter be made, examine the Valuation Rolls of the different Local Municipalities in the County and ascertain whether the valuation made in each bears a just relation to the valuation made in the others; and thereupon the County Council may increase or decrease the valuations of all assessable property in any one or more of such Local Municipalities by adding or deducting such sums upon the hundred as may in their opinion be necessary to produce a just relation between all the valuations in the County; but no such Council shall reduce the aggregate amount of the valuations made by the Valuers in the whole County;

8. Whenever it shall be represented to a County Council that the residents of any two or more Townships, no one of which contains a population sufficient to constitute a Municipality, are desirous of being united for the purpose of forming jointly a Municipality, it shall be lawful for such County Council by a Resolution to unite for that purpose so many of such Townships, under the joint names thereof, as shall be necessary to make the joint population of such United Townships amount to three hundred souls; and from and after the first day of January next after the publication of such resolution, the Townships so united, shall form a Local Municipality, and an election of Councillors for such Municipality shall take place in such month of January, in the manner prescribed by the said Act, notwithstanding that such time be not the year and month fixed by the twenty-seventh section of the said Act for holding an election; and the Councillors so elected shall remain in office until the next general election of Councillors to be held under the provisions of the said Act;

9. And notwithstanding any thing in the thirty-third section or in any other part of the said Act contained, whenever a Township or part of a Township in one County is annexed to a tract of land in another County to form a Parish, such Parish shall be a separate Municipality unless the population of such Township or part of a Township amount to three hundred souls, in which case such Township or part of a Township shall form a separate Municipality, and shall for all municipal purposes be held and considered as forming part of the County in which the remaining portion of the Parish is situate.

County Superintendent.

X. Notwithstanding any thing in the said Act contained, it shall be lawful for any County Council to pass a By-law to allow the offices of County Superintendent and Secretary-Treasurer of the County Council to be held by one and the same person; and from and after the publication of such By-law, in the manner provided by the said Act, all such parts of the said Act as are repugnant to the provisions of this clause shall be deemed repealed so far as such County shall be concerned;

but all the proceedings of each of the said offices shall, nevertheless, be kept as distinct and separate as if the two offices were held by two different persons.

2. In every County where the offices of County Superintendent and Secretary-Treasurer of the County Council shall be held by one and the same person, all notices which should have otherwise been given by the County Superintendent to the Secretary-Treasurer shall be given to the Warden, and all such acts relating to the County Superintendent as would otherwise require to be certified by the Secretary-Treasurer shall be certified by the Warden, or by one of the County Councillors.

Powers of Local Councils.

XI. Whenever there shall be within the limits of a Local Municipality at least forty inhabited houses erected within a space not exceeding sixty superficial arpents, the Council of such Local Municipality shall have full power and authority to pass a By-law defining the limits of such tract and recognizing its existence as an unincorporated Village, under such name as they may please to assign thereto; and from and after the date of the publication of any such By-law, the Local Council shall have the same power and authority to make By-laws for such unincorporated Village as the Council of any Town or Village erected under the said Act;

2. The power vested by the second sub-section of the sixty-eighth section of the said Act in the Council of each Local Municipality to amend the valuation-roll thereof, shall extend to the revision and amendment of such valuation with reference to the assessment of the business of merchants and other persons and the incomes of professional men:

3. The word "within," is hereby substituted for the word "beyond," in the proviso in the first sub-section of the twenty-third section, commencing with the word "but," and the said proviso shall be read and interpreted as if the first mentioned word had been originally inserted therein.

4. The sixth sub-section of the twenty-third section of the said Act, is hereby repealed;

5. Every local Council shall have power to make By-laws to prevent or prohibit the sale of all Spirituous, Vinous, Alcoholic and Intoxicating Liquors, in any year when the County Council has failed in the month of March to regulate by By-law such sale.

Revenue Inspectors.

XII. No Revenue Inspector shall grant any License for the sale of any of the Liquors mentioned in the eighth section of this Act in any Municipality where such sale has been prohibited by By-law, nor in any Municipality where a By-law determining the restrictions and conditions under which such licenses may be granted has been passed, otherwise than in conformity with the provisions thereof; Provided always, that a copy of such By-law has been transmitted by the Secretary-Treasurer to such Revenue Inspector.

Special Powers of Town and Village Councils.

XIII. The words “and immediately in front of such property,” in the fourth and fifth lines of the seventh sub-section of the twenty-fourth section of the said Act, are hereby annulled: and the said sub-section shall be henceforth read and interpreted as if the said words had never been inserted therein.

Election of Councillors.

XIV. Nothing in the twenty-seventh or in any other section of the said Act contained, shall prevent Councillors being chosen for a Parish or Township Municipality either from among the inhabitants of such Municipality, or from among the inhabitants of any Town or Village Municipality within the limits of such Parish or Township, or partly from one class and partly from the other.

2. The amount of the value of the property required to qualify a person to be appointed a Councillor, fixed by the said Act at one hundred and fifty pounds, is hereby reduced to one hundred pounds with respect to Councillors to be elected or appointed after the passing of this Act.

Number of Local Councillors.

XV. The word “seven” shall be substituted for the word “five” in the twenty-ninth section, and in every other part of the said Act in which the word “five” occurs as representing the total number of Councillors of a Local Council, declared by the sixth sub-section of the eleventh section of the said Act to be composed of seven councillors, and the said Act shall henceforth in all such parts be read as if the word “seven,” instead of the word “five,” had been originally inserted in the above parts.

Erection of Towns and Villages

XVI. No tract of land shall be erected into a Town Municipality unless it be shewn by the Report of the County Superintendent that there are at least three thousand inhabitants within such tract.

2. It shall be lawful for the Governor, upon due proof that the number of inhabitants in any Village previously, incorporated as such, amounts to three thousand souls, to issue a Proclamation creating such Village a Town Municipality;

3. It shall be the duty of the Warden of the County in which any newly erected Town or Village Municipality is situate, to cause an election of Councillors to be had, and to organize the Council thereof, in the manner prescribed by the said Act, so soon as the proclamation erecting the same shall take effect, notwithstanding that such time be not the year and month fixed by the twenty-seventh section of the said Act for holding an election; and the Councillors so elected shall remain in office until the next general election of Councillors to be held under the provisions of the said Act;

4. No proclamation for uniting a Town or Village Municipality to some adjoining Local Municipality under the provisions of the fifteenth sub-section of the thirty-fourth section of the said Act, shall have any force or effect until the first day of January next after the expiration of the two months immediately following the date of such proclamation;

5. It shall be lawful for any Town or Village Municipality to demand from the Council of the Municipality from which such Town or Village has been separated, or of any other Municipality, who may have then in their possession, and it shall be the duty of such Council on such demand, to give up to such Town or Village Municipality, all documents or papers of any kind whatsoever, relating exclusively to the territory included in such Village or Town Municipality, and to allow the Secretary-Treasurer of such Village or Town Municipality, or such other officer as shall be appointed for that purpose, to take copies of such parts of all other documents as relate to such territory, without any further fee than for the certificate of the authenticity of such copies;

6. The thirty-fourth section of the said Act shall henceforth be read and interpreted as if the word "thirty" had been inserted instead of the word "forty" in the fifth line thereof — and the third sub-section of the same section shall henceforth be read and interpreted as if the word "forty" had been inserted in the first line thereof, instead of the word "sixty" and as if the word "sixty" had been inserted in the second line thereof instead of the word "thirty."

Appointments by the Governor.

XVII. It shall be lawful for the Governor to revoke any appointment by him made, under the provisions of the said Act.

Existing Proces-Verbeaux and By-Laws.

XVIII. The fourth sub-section of the forty-sixth section of the said Act is hereby repealed.

New *Proces-Verbaux*.

XIX. The seventh sub-section of the forty-seventh section of the said Act is hereby repealed.

XX. Notwithstanding any thing in the ninth sub-section of the forty-ninth Section or in any other part of the said Act contained, no *Procès-Verbal* shall be considered as having been duly homologated, unless it shall have been homologated, with or without amendment, by the Council charged with the examination or revision thereof, or until it shall have remained deposited in the office of such Council, without having been homologated or amended, during a period of ten days after the time when the first general meeting of such Council should have been, bylaw, held, subsequently to the date of the deposit of such *Procès-Verbal*.

2. Notwithstanding any thing in the forty-ninth section or in any other part of the said Act contained, the County Superintendent shall not be bound to deposit his *procès-verbal* before the

expiration of thirty days after the time when he shall have visited the place where the work to which such *procès-verbal* relates is to be done.

Powers and Duties of Road Officers, &c.

XXI. Notwithstanding any thing in the said Act contained, no County Superintendent or other officer or person mentioned in the second sub-section of the fifty-third section of the said Act, shall be bound to give special notice, or any notice whatsoever, before entering upon any land for any of the purposes specified in the said sub-section.

XXII. Notwithstanding any thing in the fifty-fifth section or in any other part of the said Act contained, no Inspector of Roads shall be bound to notify any Overseer of Roads in his division of the time when he intends to visit the section of such Overseer otherwise than verbally — nor shall any such Inspector be required to report to the County Superintendent, as provided under the said section, oftener than every three months, unless specially required by the County Superintendent so to do.

Execution of County Works.

XXIII. The words “or of one or more Local Municipalities in two or more County Municipalities in the sixty-fourth section of the said Act, are hereby annulled, and the words “or of more than one Local Municipality in one or more County Municipalities,” are hereby substituted therefor, so that the said sixty-fourth section shall be read as if the latter words had been originally inserted therein.

Valuators and Valuation.

XXIV. A valuation-roll for every local Municipality in Lower Canada shall be made in the year one thousand eight hundred and sixty, and thenceforward triennially, notwithstanding a valuation-roll may have been made in any local Municipality within the period of three years immediately preceding the time so fixed for making such triennial valuation-roll.

2. Every Valuator appointed after the passing of this Act shall remain in office until the next triennial appointment of Valuators.

3. The appointment of Valuators shall hereafter be made at the time and in the manner prescribed by the said Act, if such appointment takes place in the year fixed for the general election of Councillors, and if in any other year, then, at the general monthly meeting in the month of January, or at a special meeting held within fifteen days after such general meeting.

Collection of Assessments, &c.

XXV. The fifth and sixth sub-sections of the seventy-fourth section of the said Act are hereby repealed, and in lieu thereof the following provisions for the collection of assessments are substituted, and the said seventy-fourth section shall henceforth be read and interpreted as if the

said provisions had originally stood in the place of the said fifth and sixth sub-sections hereby repealed.

2. The Secretary-Treasurer upon completing his Collection-Roll, shall proceed to collect the assessments therein mentioned, and for that purpose shall, on the next following Sunday, give or cause to be given public notice that the Collection-Roll is completed and deposited in his office, and that all persons whose names appear therein, as liable for the payment of any assessment, are required to pay the amount thereof to him at his office within twenty days of the publication of such notice;

3. If at the expiration of the said twenty days any assessment remains unpaid, the Secretary-Treasurer shall leave at the usual place of residence or domicile of such person in arrear or with him personally, a statement in detail of the various sums and the total amount of assessments due by such person, and shall at the same time, in and by a notice annexed to such statement, demand payment of the assessments therein mentioned, together with the costs of the service of such notice according to such tariff as the Council shall have established;

4. If any person neglect to pay the amount of assessments imposed upon him, for the space of fifteen days after such demand made as aforesaid, the Secretary-Treasurer shall levy the same with costs, by Warrant under the hand of the Mayor of the Municipality authorizing the seizure and sale of the goods and chattels of the person who ought to pay the same, or of any goods or chattels in his possession, wherever the same may be found within the local Municipality; and no claim of property, or privilege thereon or thereto shall be available to prevent the sale thereof for the payment, of the assessments and costs out of the proceeds thereof.

Penalties.

XXVI. All the provisions of the seventy-sixth Section of the said Act, shall apply to this Act, in as full a manner as if this Act had originally formed part of the said Act.

Recovery of Penalties, Taxes, &c.

XXVII. The first sub-section of the seventy-seventh section of the said Act is hereby repealed.

2. All penalties imposed by the said Act as amended by this Act, or by any By-law made by competent authority in virtue of the said Act or of this Act, shall be recoverable before the Circuit Court of the Circuit in which the Local Municipality or the major part thereof is situated, or before any Justice of the Peace; all the fines and penalties incurred by any one person may be included in the same suit; and the costs in all such suits before a Justice of the Peace shall be taxed according to the tariff of the Court of Commissioners for the trial of small causes; any law to the contrary notwithstanding;

3. The said seventy-seventh section of the said Act shall henceforth be read and interpreted as if the next preceding sub-section had originally been inserted therein, and had formed the first sub-section thereof in lieu of the sub-section hereby repealed.

(No. 1.)

Public Notice to Be Given by a Secretary-Treasurer of the Completion of His Collection-Roll.

Public Notice is hereby given that the Collection-Roll of the Municipality of the (Parish, Township) of (Name) is completed and is now deposited in the office of the undersigned. All persons whose names appear therein as liable for the payment of any Assessment, are hereby required to pay the amount thereof to the undersigned at his said office, within twenty days from this day, without further notice.

A. B.
 Secretary-Treasurer of the
 Municipality of _____

(Place.)

(Date.) 185_____

(No. 2.)

Secretary-Treasurer's Notice for the Payment of Assessment.

Municipality of the (Parish, Township, &c.) Mr. _____	Municipality of the (Parish, Township, &c.) (Date of delivery.) Mr. _____, Dr. _____	To the Corporation of the (Parish, Township, &c.) Assessment on your (here mention the property, as house, land, &c.) valued at £_____ at (¼d.) in the £..... (Here add the various other items of taxation)	Total
(Copy of Account.) £		Sir, — Take notice that, having failed to pay the above mentioned sum within the time prescribed by public notice, you are hereby required, within fifteen days from the date hereof, to pay the same to me at my office, together with the costs of this notice and service thereof as below, in default whereof, execution will issue against your goods and chattels.	
Costs. Notice £	Costs. Notice £	A. B. Secretary Treasurer.	