

# THE GLEANER:

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*Nec araneorum sane textus ideo melior, quia ex se fila gignunt, nec noster vilior quia ex alienis libamus ut apes.*

[COMPRISED 13 VOLUMES

New Series, Vol. X

Miramichi, Monday Evening, October 13, 1851.

No. 51.

## AN ACT

To provide for the establishment of Municipal Corporations in this Province.

Passed 30th April, 1851.

Concluded.

25. The powers and authority of the council shall extend to the following objects, to regulate which bye laws may be made:—

1st. For making, maintaining or improving any new or existing road or street, or for stopping up, altering or diverting the same, not being a great road:

2d. For the erection, preservation or repair of any new or existing bridges and public buildings:

3d. For the purchase and management of such real estate as may be required for the public use of the inhabitants of the county:

4th. For the sale of such real property belonging to the county as they may deem expedient and beneficial to the inhabitants of the county:

5th. For the superintendance and management of all the property of the county:

6th. For the support of the poor of each parish:

7th. For the establishment and regulation of markets and fairs:

8th. For licensing and regulating Tavern Keepers and Retailers:

9th. For regulating ferries, public wharves and landings:

10th. For providing means for defraying such expenses connected with the administration of Justice as require to be defrayed out of the county funds:

11th. For providing for the establishment and support of schools and hospitals, and the erection of school houses:

12th. For raising, assessing, levying and appropriating all moneys that may be requisite for carrying into effect the objects for which the council is empowered to make bye laws; such moneys to be raised by tolls on public works or by rates to be assessed on real and personal property, or its owners and occupiers, and other persons resident in the respective parishes, provided that no assessment shall be made for parish purposes greater than the amount recommended by the councillors for the particular parish for which the assessment is made, and shall be made only on such parish and the inhabitants thereof:

13th. For the collection and accounting for of all tolls, rates and assessments, and of the county revenues:

14th. For imposing penalties on persons refusing to serve in office or take the prescribed oaths, or for any breach of the bye laws:

15th. For determining the amount and manner of paying salaries, fees and remuneration of county officers:

16th. For the making of all contracts relative to matters under their control, which contracts, after being duly considered by the council, shall be signed by the Warden, and countersigned by the Secretary Treasurer:

17th. For determining what officers it may be expedient to pay, fixing the amount of their salaries and the time and mode of paying them; provided always, that no Warden or councillor shall receive any salary:

18th. For obliging each circus company or showman, or exhibitor of wild beasts, coming into the municipality, to pay to the Secretary Treasurer, for the use of the county, a duty of not less than five pounds nor more than ten pounds, under penalty of twenty pounds for contravention thereof:

19th. For making rules and regulations for trying contested elections of members of their own body, and the trying of such contested elections:

20th. For the prevention of fires by regulating the mode of placing stoves and stove pipes, flues, furnaces and ovens in any house or other building, or for the safe keeping of ashes:

21st. For regulating the running at large of horses, cattle, sheep, goats, swine, and other animals, geese, turkeys and other poultry, and for impounding the same, and for fixing the periods of the year during which such animals or poultry shall be permitted to run at large or be restrained from so doing:

22nd. For preventing vice, drunkenness, profane swearing, obscene language, and any other species of immorality or indecency in the public streets and roads; and for preserving peace and good order in such streets and roads, and in public places or taverns; for preventing the excessive beating or cruel and inhumane treatment of animals; for preventing the sale of any intoxicating liquors to Indians, children, apprentices or servants, without the consent of their protectors; and for restraining and punishing all vagabonds, drunkards and beggars, and all persons found drunk and disorderly in any street, road or public highway in the county:

23rd. For providing for any other purpose, matter or thing specially subjected to the

control of the council by law; but no bye law shall impose any punishment of imprisonment for a longer period than thirty days, or any penalty exceeding five pounds.

26th. All powers and authorities now vested by law in Justices of the Peace to make bye laws, impose rates or assessments, appoint county officers, or make regulations for any purpose whatever, after the incorporation of any county, shall be transferred to, vested in, and be exercised by the county council only; but no bye laws or regulations made by the Justices in Sessions shall be considered repealed until the county council shall expressly declare such repeal by a bye law.

27. All debts, liabilities and obligations of every kind which may be due or owing, or to which any county may be legally liable at the time of its incorporation, shall be assumed, paid and performed by the county council, and be recoverable from the same by action or otherwise, on the same terms and conditions as the same should have been paid and performed if the county had not been incorporated; and all property of a public nature and debts of every kind belonging or owing to any county, shall at the same time become vested in and due and payable to the county council, and receivable as if originally due to them; but no county council shall issue or authorize the issuing of any bill or note, or in any way act or authorize any persons to act as bankers.

28. In assessing any rate or tax the county council shall be governed in all things by the laws now or hereafter to be enacted for the levying and collecting of county and parish rates; no assessment upon property made by the county council shall in any case exceed two pence in the pound on the assessed value; and the same shall be apportioned and assessed equally on all property liable by law to parish and county rates; but no rate or assessment whatever shall be made or levied on any lands, tenements or other property real or personal of Her Majesty, her heirs or successors.

29. All allowances or per centage granted by law to any collector or county treasurer, and all salaries, wages and allowances of any kind enjoyed by any county, town or parish officer shall continue to be paid after the incorporation of any county until otherwise ordered by the county council.

30. An authentic copy of each bye law passed by the county council shall forthwith, after being passed, be transmitted by the warden or chairman for the time being to the Provincial Secretary, who shall note on such bye law the date of its receipt, and lay the same before the Lieutenant Governor; no bye law shall go into operation or be of any force until thirty days after its receipt by the Provincial Secretary; within the said period of thirty days the Lieutenant Governor in Council may disallow any bye law, and such disallowance, with a certificate of the day on which the bye law was received by him, shall with all convenient speed be transmitted by the Provincial Secretary to the Warden of the county, and the bye law so disallowed shall be void and of none effect whatever.

31. The county council at any semi-annual meeting may order such sums to be assessed on the inhabitants of the council as may be necessary to pay the salaries of any county officers or defray the cost of any public work which they may direct to be done.

32. At least ten days before the meeting of the Provincial Legislature, the Warden shall transmit an abstract of the receipts and expenditures of the county during the preceding year to the Lieutenant Governor, who shall lay the same before both branches of the Legislature.

33. No councillor shall in any case receive or be entitled to any salary or emolument for his services as such.

34. Nothing in this Act contained shall extend to any toll bridge or road belonging to any company or individuals, nor to any work under the control of the Imperial or Provincial Government, or of the military authorities.

35. All fines and penalties imposed by this act or by any bye law of the county council, and for the recovery of which no other provision is made, may be recovered with costs by summary proceeding before any Justice of the Peace for the county, and may be levied by distress and sale of the goods and chattels of the offender, by Warrant under the hand and seal of such Justice; all fines and penalties when recovered shall be paid and applied as this act or the bye laws shall direct; no informer or other person who is to receive for his own benefit any part of a fine or penalty, shall be a competent witness for the prosecution, unless he first relinquishes in writing all claim to his proportion of the fine or penalty; in such case the whole penalty shall be applied as this act or the bye law may direct, for that portion which was not to go to the informer or prosecutor; any inhabitant of the county or member of the county

council shall be a competent witness in any prosecution for the recovery of a fine or penalty, or in any suit for money payable to the Secretary Treasurer, or due to the county council, or in any suit wherein the county council is a party, or has an interest in the result, by reason of such person being an inhabitant of the county, or a member of the county council, or an officer or person in its employ; provided that such person shall have no other interest in the prosecution or suit which would render him an incompetent witness.

36. All rates and tolls imposed by any county council shall be assessed, collected, paid, levied and recovered in manner prescribed by the bye law imposing the same, and by the assessors and collectors of rates in the respective parishes, provided such bye law is not repugnant to the law of this Province, or to this act.

37. All rates for public purposes not within the scope and authority of this act to which the inhabitants of any county are now liable, or may hereafter be liable to pay by a law of the Province, shall continue to be assessed upon and paid by the inhabitants of any incorporated county, until otherwise directed by the act of the Legislature.

38. The expenses of levying, collecting and managing all rates and taxes shall form the first charge on the county funds; the expenses incurred by the Sheriff, Coroner, and Gaoler, in the care and safe keeping of prisoners, and in all other matters connected with the administration of Justice, shall form the second charge on these funds; all debts and legal liabilities due and created before the incorporation of the county, shall form the third charge; and all other sums payable out of the county funds for any purpose whatever not within the scope of the power of the county council, shall form the fourth charge; and all sums and expenses not included in the above charges, which shall be directed by bye law to be paid out of the county funds, in the order in which they are directed to be paid, shall form the fifth charge on such funds.

39. Nothing in this act contained shall be construed to repeal or affect the provisions of any law or enactment now in force, except so far only as such law or enactment shall be inconsistent with or repugnant to the provisions of this act or the attainment of the objects and purposes thereof.

40. The county council at their first semi-annual meeting in each year shall appoint one person to be County Auditor; no person shall be appointed auditor who is a member of the county council, or one of its officers, or who shall directly or indirectly, by himself or partner, have any share or interest in any contract with the county council or any employment under them; no county auditor shall act as such unless he shall have previously made and subscribed the oath No. 4, in the schedule annexed, before the Warden of the county or any two of the councillors, who are hereby authorized and empowered to administer such oath.

41. It shall be the duty of the county auditor to examine and audit the accounts of the Secretary Treasurer, and all other accounts which may be referred to him by the county council, and to report thereon at the next semi-annual meeting after such reference; the county auditor shall have authority to call for all books and vouchers he may deem necessary, for elucidating any account laid before him; no accounts shall be allowed or passed by the county council until the same is audited and reported upon by the county auditor; and all audited accounts shall be open at all reasonable times to the inspection of any elector of the county.

42. The Secretary Treasurer of the council shall keep a book in which shall be entered the minutes of proceedings of the council, and the bye laws, rules and regulations made by the same; and shall also receive for the said council from the parish councillors or officers or other person or persons whomsoever having charge thereof, all money, property, books, documents, plans, maps, manuscripts or records of whatsoever kind pertaining to the said parish within the municipality; and he shall cause the provisions of this act in respect of such municipality, and the rules and regulations established by the council thereof, and every matter or thing required to be done or performed under the authority of this act, to be enforced against and executed by the parties subject thereto; and the said councillors and officers of the county appointed under the provisions of this act, and of the respective parishes within such county having charge of the same, shall, and are hereby required to deliver up the same on demand to the Secretary Treasurer of the council of the county or municipality constituted under this act, under the penalty of forty shillings for each and every refusal so to do; and shall also keep a register of all papers and documents on which any action

shall have been taken by the council, and such minutes and registers shall be signed at each sitting by the Warden or temporary chairman of the council and countersigned by the Secretary Treasurer, and copies of such documents so signed as aforesaid, shall be received in evidence in all Courts of Justice in this Province.

43. Every person authorized by law to make affirmation, instead of taking an oath, may make affirmation in every case where an oath is required by this act; and any person who shall wilfully or affirm falsely in any matter where an oath or affirmation is required by this act, shall be deemed guilty of wilful and corrupt perjury and be punished accordingly.

44. If any parish shall refuse or neglect to elect councillors in the manner hereinbefore provided, the Lieutenant Governor in council shall appoint them or so many of them as ought to have been elected, upon a statement made on oath before some Justice of the Peace, by any two electors, that no election of such councillors has been had within the time limited by this act, and the councillors appointed by the Lieutenant Governor in council, shall be sworn into office, and have the same powers and privileges, and be subject to the same duties and penalties, as if they had been elected at a general meeting of the rate payers of the parish, and shall go out of office and may be re-elected as directed by this act.

45. The cities of Saint John and Fredericton shall be exempt from the operation of this act, which shall in no way extend to or affect the said cities, or either of them; but the remaining parishes in the counties of York and Saint John, in which the said cities of Fredericton and St. John are respectively situated, may, if the rate payers in those parishes shall so decide, according to the provisions of this act, be incorporated by charter as county municipalities, distinct and apart from the said cities of Fredericton and Saint John respectively, and enjoy all the rights, powers and privileges to which other county corporations may be entitled under this act.

46. Every action brought by or against any county council shall be brought by or against the same by its corporate name; and in all such actions, service of process on the Secretary Treasurer for the time being, shall be good and valid service of such process.

47. That the council shall during its sittings be deemed and considered a court for the transaction of business, and for such purpose shall have all the rights, powers, privileges and immunities incident thereto.

48. Wherever the words "Lieutenant Governor" occur in this act, they shall be understood as comprehending the Lieutenant Governor administering the Government of the Province for the time being; and throughout this act whosoever words are used importing the singular number, or the masculine gender only, yet they may be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males; and whosoever words are used denoting the plural number, yet they may be understood to apply to one matter or one person as well as more than one, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and all the sections and articles of this act shall, if necessary, be so construed together as best to render them operative and effective for the purpose intended.

49. This act may be altered or amended during the present Session of the Legislature.

50. This act shall not come into operation or be in force until Her Majesty's Royal approbation be thereto had and declared.

## SCHEDULE.

No. 1.

Oath to be taken by Returning Officer.

I, A. B., presiding and returning Officer at the election of councillors for the County of \_\_\_\_\_, do swear (or do solemnly affirm, as the case may be,) that I have not indirectly or indirectly by myself or any other person, received any fee, gift, gratuity or reward, either in money or otherwise, or the promise of any as a consideration for my returning or effecting the return of any person as a member of the council for the county of \_\_\_\_\_; and that I will to the best of my ability, fairly, honestly and faithfully, conduct the present election for the choice of members of the county council, and truly declare the candidates who at the final close shall appear to have the majority of votes; and that I will use the best of my endeavors to preserve peace and good order at such election, and to give all persons entitled to vote free and unmolested access to and from the poll.

No. 2.

Oath to be taken by Voter at Election of County Councillors.

I do swear (or solemnly affirm, as the case