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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

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Miramichi, Monday Evening, October 6, 1851.

No. 50.

AN ACT

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

Passed 30th April, 1851.

Whereas for the better protection and management of the local interests of Her Majesty's subjects, it is expedient that Municipal Corporations be established in this Province;

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

If it be desired that any County shall be incorporated under the provisions of this Act, the same shall be signified to the Lieutenant Governor in Council in manner following:

At least fifty of the resident freeholders and householders of the County paying rates upon property, shall by petition to the Sheriff, pray that a public meeting be called at the County Court House for the purpose of taking into consideration the propriety of incorporating the County:

The Sheriff shall thereupon give at least three months' public notice of the day and hour at which such meeting shall be held; the notice shall contain a copy of the petition and of the names of the signers; it shall be published at least in eight weekly numbers of a newspaper printed and circulating in the County, if any, and also shall be published by printed handbills in at least ten of the most public places in each Parish:

At the meeting the Sheriff shall preside; if not less than one hundred householders and rate payers upon property are present, it shall be put to vote whether the County shall or shall not be incorporated under this act, and if two thirds of those who vote on the question at such meeting, being householders and rate payers upon property, shall decide in the affirmative, the Sheriff shall certify the same under his hand and seal to the Lieutenant Governor in Council:

If it be decided that the County shall not be incorporated, the Sheriff shall thereupon dissolve the meeting, but another meeting may be called at any time after six months from the preceding meeting, on the like petition, and similar notice for taking the question again into consideration as in the preceding provision.

2. On receiving the certificate before mentioned from the Sheriff of any County, the Lieutenant Governor in Council may, and is hereby required, to grant to such county a Charter of Incorporation, under the Great Seal of the Province, constituting the rate payers upon property of such county a Body Politic and Corporate, by the name of "The Municipality of —" (naming the county as the case may be,) and by that name the corporation shall have perpetual succession and a common seal; and may sue and be sued; and shall have power to take and hold within the limits of the Municipality, real property not exceeding in amount at any one time the yearly value of five hundred pounds currency, and may alienate the same; and may enjoy and exercise all other corporate powers and privileges necessary for carrying out and effecting the purposes and intention of this act.

3. In each county incorporated under this act, there shall be a county council, consisting of a Warden and Councillors, to be elected as hereinafter provided; every member of such county council must be an inhabitant of the county, seized and possessed at the time of his election of Real Estate within the limits thereof of the value of not less than one hundred and fifty pounds currency, over and above all incumbrances.

4. When any county is incorporated under this act, the Collectors of Rates in each Parish shall at least ten days previous to the day hereinafter appointed for the election of councillors, and so annually thereafter from year to year, furnish the Town Clerk with correct lists, certified under their hands, of all the rate payers upon property within such parish, who were rated for parish and county rates at the last assessment, and who have paid the same at the date of making out such list, which lists shall be furnished by the said Town Clerks respectively, to the Chairman elected to preside at the meeting, as provided for in the sixth section of this act; if any rate collector fails to furnish such certified list to the Town Clerk by or within the time limited therefor, he shall be deemed guilty of a misdemeanor, and on conviction thereof before two Justices of the Peace, shall be committed to the county gaol, there to remain without bail or mainprize until such lists be furnished.

5. Every parish shall be entitled to elect two councillors, and no parish shall elect more than two.

6. Within three months after the granting of any county charter in the year one thousand eight hundred and fifty one, and on the

first Monday in July in every year thereafter, the electors in every incorporated county shall proceed to the election of councillors; and it shall be the duty of each Town Clerk to give twenty days public notice in writing of the time and place of holding such election, and post the same in three of the most public places in the parish; and the electors present shall proceed to elect a chairman, who shall preside at the election in the same.

7. If at any election for councillors a poll is demanded by a candidate or any three electors then present, the same shall be granted by the presiding officer:

The meeting shall begin at nine o'clock in the morning, and the poll be kept open until the hour of five in the afternoon, and no later:

The votes shall be taken by ballot, each elector putting in the ballot box a slip of paper with the names of the two candidates for whom he votes written or printed thereon; at the hour of closing the poll the presiding officer shall, in the presence of one elector, to be chosen by each candidate and sworn as tellers, and in the presence of the electors who may choose to remain, open the ballot box, and taking out each ballot separately, read aloud the names written thereon, so as to be taken down by each teller, and when the whole of the ballots shall be so read aloud and taken down, the presiding officer shall declare the two candidates elected who have the majority of votes, and shall also declare aloud the number of votes polled for each candidate, and in case any two candidates shall have an equal number of votes, the presiding officer is required to give a casting vote for one of such candidates, and so determine the election:

The presiding officer within two days after the close of the election, under the penalty of twenty shillings for each day's delay thereafter, shall make return in writing of the councillors elected at the first election to the Sheriff of the county, and at any subsequent election, to the Secretary Treasurer of the council, to whom he shall deliver a list of the number of votes given for each candidate, and such list shall be open for the inspection of every member of the corporation who shall apply for the same.

8. Before the presiding officer shall allow any votes to be polled, he shall take the oath No. 1, in the schedule annexed, before some Justice of the Peace for the county in which the election is held; which oath such Justice is hereby empowered and required to administer, and the Justice shall certify such oath in the poll book for the election.

9. The presiding officer, if he see fit, or if required by a candidate, may administer to any person claiming a vote the oath No. 2, in the schedule annexed; and no other proof of qualification shall ther: be required of such person.

10. No person shall vote at the election of councillors unless of the male sex, of the full age of twenty one years, and a subject of her Majesty by birth or naturalization, nor unless he shall be a rate payer on property in the parish, and shall have been assessed for and paid his rates and taxes up to the time of such election, nor unless his name shall so appear on the list furnished to the Town Clerk by the collector of rates for the parish, under the provisions of the fourth section of this act.

11. None of the following persons shall be elected a councillor, or be appointed to office by any council, nor shall any person continue to act as councillor, or hold any office under a county council, after becoming one of the persons disqualified as follows:—

1st. Persons in holy orders, or ministers or teachers of any religious sect or denomination:

2d. Judges or Justices of any court of civil jurisdiction:

3d. Officers of her Majesty's Army or Navy on full pay:

4th. Any person having a contract or share or interest in a contract with the county:

5th. Any person receiving pecuniary allowance from the county for his services.

The following persons shall be exempt from being elected councillors, or serving in any county office, unless with their own consent:—

Members of the Executive or Legislative Councils, members of the Legislative Assembly, practising Physicians or Surgeons, Schoolmasters actually employed in teaching, any Miller who shall be the only one employed in a mill, persons more than sixty years of age, persons who have served as councillors or in any county office, or paid the penalty for refusal, shall be exempt during the four years next after such service or refusal.

12. The presiding officer at any election of councillors or parish officers, during the time of such election, shall be a conservator of the peace, and shall be invested with the same powers for the preservation of the peace, the apprehension, committal, holding to bail for trial, or trying or convicting of offenders, as

are vested in Justices of the Peace in this Province; and for the purpose of preserving peace and good order, all Justices of the Peace residing in the parish, shall attend at the election, upon being notified in writing by the presiding officer; and such officer may command the assistance of all Justices, Constables and other persons present at the election, and may swear in as many special constables as he thinks fit; he may commit any person for a breach of the peace, or for molesting or threatening any elector at or coming to or returning from the election, or for any violation of good order, to the custody of any constable or person present on view, for such time as he deems expedient, not exceeding twelve hours, or may by writing under his hand, commit the offender to the common goal of the county for any period not exceeding ten days; and any Justice of the Peace or other person present at an election who shall neglect to aid or assist the presiding officer during such election, when requested by him, shall be deemed guilty of a misdemeanor and be punished accordingly.

13. No person who may be elected a councillor shall act in that capacity until he shall have taken and subscribed before a Justice of the Peace for the county, who is hereby authorized to administer the same, the oath of allegiance to her Majesty, and also the oath No. 3, in the schedule annexed; such oaths shall be taken and subscribed by each councillor duly qualified, within ten days after notice of his election, and in default thereof, such person or persons shall be deemed to have refused to accept the office of councillor, and shall be liable to pay to the Secretary Treasurer of the council, such fine not exceeding ten pounds currency, as the bye laws of the council shall prescribe; if the fine is not paid within eight days after such refusal or neglect, it may be sued for and levied by seizure and sale of so much of the goods and chattels of the offender, as will satisfy the same, with costs, by virtue of a warrant under the hand and seal of a Justice of the Peace, to be issued at the instance of the Secretary Treasurer, or of any elector of the Municipality, upon the oath of any one competent witness; and one third of such penalty shall belong to the prosecutor, if he be not a public functionary or officer, and the remaining two thirds to the corporation; if the prosecutor be a public functionary or officer, the whole shall belong to the corporation; provided always, that no person elected a councillor shall be subjected to a penalty for not taking the required oaths if he be not qualified.

14. In case of the death or resignation of any councillor or permanent absence from the municipality, or absence for more than six months, or incapacity after election, or refusal to accept the office, the Warden of the county shall issue a warrant under his hand and seal to the Town Clerk, requiring him to call a public meeting in the parish, to elect some other person to fill the vacancy; and such election shall be conducted in the manner prescribed in this act for holding elections; but no warrant shall issue for an election to supply a vacancy after the second semi-annual meeting of the council in any year; in all elections to fill vacancies, the officers presiding at such meetings must be governed by the last certified assessment list.

15. The Council elect as soon as convenient, and not more than twenty days after their return, shall assemble in the County Court House, and having previously taken the required oaths, shall choose from among themselves a Warden, who shall be designated by the name of "The Warden of the county of —" (adding the name of the county); the Warden shall not hold the office for more than one year, or until his successor be elected and sworn in, unless re-elected, if he continue to be a councillor; whenever a vacancy occurs by the Warden going out of office or otherwise, the council shall at its first meeting thereafter proceed to elect a Warden; during the temporary absence of the Warden, his place may be filled by a chairman for the time being, chosen by the members present.

16. A majority of the council may be a quorum for the transaction of business; a smaller number may adjourn from time to time, and absent members may be compelled to attend, under such penalties as may be provided by bye law of the council; all questions arising in the council shall be decided by a majority of votes; in case of an equal division, the Warden or temporary chairman shall have the casting vote, but in no other case shall the Warden or temporary chairman have a right to vote.

17. After the first meeting of the council there shall be regular half-yearly meetings in each year, that is to say, on the second Tuesday in January and the third Tuesday in July, which shall not continue longer respectively than five successive days; besides the semi-annual meetings, the Warden on the application of any four members of the council, may call special meetings of the council for

the despatch of business, specifying in such call the grounds thereof, and causing public notice of such special meeting to be posted in some public place in each parish, or to be personally served on the councillors of such parish, at least two days before the time appointed for such special meeting; all meetings and sittings shall be open and public; if any council fail to meet at any time appointed by law, they shall not thereby be deemed to be dissolved, but may hold such future semi-annual and other special meetings as if there had been no failure.

18. Each council shall appoint a Secretary Treasurer of the council, who shall at the same time be the Secretary and Treasurer of the Corporation, and such other county officers as they shall deem necessary for county purposes, who shall be under the direction of the said council in the management thereof.

19. At the time and place of holding the annual election in each parish for the choice of county councillors, the rate payers upon property then present entitled to vote for councillors, shall also, if they so choose, elect all parish officers, or so many thereof as they may deem necessary for the then ensuing year, by ballot, in the same manner as the councillors are directed to be elected by the seventh section of this act; and after all the parish officers are thus elected, a correct list shall be made out and certified by the chairman of the meeting, and within six days after such election to be by him forwarded to the Secretary Treasurer of the Council; and if the rate payers in any parish fail to elect such parish officers, or shall not elect a sufficient number, or if no certified list be forwarded within the time limited by this act to the Secretary Treasurer, to be laid before the council, the council shall then, and in such case they are hereby authorized and required, to make the necessary parochial appointments for the parish failing to elect for the year; and so much of the act passed in the thirteenth year of her present Majesty's reign, intituled "an act to consolidate and amend the laws relating to the local governments of counties, towns and parishes in this province," as is repugnant to the provisions of this section, shall be and the same is hereby repealed when and so soon as and so far as relates to the county or counties in which this act shall come into operation.

20. Every parish officer, whether elected or appointed, shall be sworn to the faithful discharge of his duty, within fourteen days after his election or appointment, before a Justice of the Peace, and the Justice shall forthwith make return to the Secretary Treasurer of every officer so sworn as aforesaid; in case of refusal or neglect to serve, or in case of the death or removal of any person so elected or appointed during the year, the county councillors of the Parish in which such vacancy may occur, may appoint a fit person to any such vacant office until the next meeting of the county council, when such appointment may be confirmed by such county council, or another person appointed; and if any person so appointed by the two councillors for the parish as aforesaid, shall neglect or refuse to serve, they may appoint another in his place, and so on as often as a similar case may occur, subject to the approval of the county council as aforesaid; and if any person elected or appointed to any of the said offices shall refuse to serve or be guilty of any misbehaviour or neglect of duty not herein otherwise specially provided for, such person shall forfeit and pay the sum of forty shillings for each and every offence, and in case of the neglect of duty or misbehavior of any constable or other parish officer, the county council, in addition to any penalty for the offence, may dismiss such officer and appoint another person in his place.

21. No person shall hold more than one county office at the same time in any county; the partner of any county officer shall not hold office in the same county with such officer; no officer either directly or indirectly shall have any share or interest whatever, either for himself or his partner, in any work undertaken for the county council.

22. Every councillor, duly elected and qualified, shall continue in office one year, or until another is elected in his stead, but any councillor going out shall not be re-elected for the then ensuing year unless by his own consent.

23. A Warden or councillor may resign his office at any time by a declaration to that effect under his hand, and on payment of a fine of ten pounds; the vacancy may be filled by a new election as in other cases of vacancy; the councillor elected to fill the vacancy shall hold office for the residue of the term of the person whom he succeeds, but no longer, but he shall be capable of immediate re-election unless disqualified.

24. Each council shall have power to make and from time to time alter such rules and regulations as may be requisite for the conduct and good order of their proceedings.