

# CAP. XI.

An Act to grant a loan of five thousand pounds to the Saint John Water Company.

Passed 22d July 1837.

**WHEREAS** the objects of the Saint John Water Company are of great public importance: And whereas the works of the said Company are in progress, but in consequence of the disastrous effects of the late fire at the City of Saint John, the said Company will not be able to proceed with such works without assistance, and it is therefore expedient that a loan be granted to the said Company from the Province Treasury:

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That there be and is hereby granted to the Saint John Water Company the sum of five thousand pounds as a loan to the said Company on interest at and after the rate of six per cent. per annum for the term of five years.

II. And be it enacted, That before the said sum of five thousand pounds shall be drawn from the Treasury, the said Company shall by themselves and their sureties give good and sufficient security to the satisfaction of His Excellency the Lieutenant Governor or Commander in Chief for the time being, or of Commissioners to be appointed for the purpose of examining such securities, to the King's Majesty, his heirs and successors for the repayment of the said sum of five thousand pounds, into the Treasury of this Province, on or before the first day of January which will be in the year of our Lord one thousand eight hundred and forty three, and for the payment in the mean time of the annual interest of and upon the said sum of five thousand pounds into the said Treasury on the second day of January in each and every year.

III. And be it enacted, That when and so soon as security shall be given as hereinbefore directed the said sum of five thousand pounds shall be paid by the Treasurer of the Province by warrant of His Excellency the Lieutenant Governor or Commander in Chief for the time being, by and with the advice of His Majesty's Executive Council, to the said Saint John Water Company or their Treasurer out of the monies now in the Treasury or as payment may be made to the same.

IV. And be it enacted, That the said sum of five thousand pounds, and the interest thereof, shall be returned and paid as provided for and required in and by the second section of this Act into the Treasury of this Province, subject to the control and disposal of the Legislature.

# CAP. XII.

An Act to alter and amend an Act, intituled "An Act to repeal all the Laws now in force for regulating, laying out and repairing Highways and Roads, and for appointing Commissioners and Surveyors of Highways in the several Towns and Parishes in this Province, and to make more effectual provisions for the same," so far as the same relates to the Parish of Portland in the County of Saint John.

Passed 22d July 1837.

**WHEREAS** in and by the eleventh section of an Act made and passed in the fifth year of the reign of His present Majesty King William the Fourth, intituled "An Act to repeal all the laws now in force for regulating, laying out and repairing highways and roads, and for appointing Commissioners and Surveyors of highways in the several Towns and Parishes in this Province, and to make more effectual provision for the same," it is among other things enacted, that the width of all highways or public roads after the passing of that Act should not be less than four rods: And whereas it is advisable that in certain parts of the Parish of Portland in the County of Saint John, power should be given to the Commissioners for the time being to lay out and establish highways or public roads of less width than four rods:

Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and may be lawful to and for the Commissioners for the time being in and for the Parish of Portland in the County of Saint John, to lay out and establish highways, roads, and streets in that part of the said Parish, which lies to the westward of a line extending North and South through the centre of the aboideau at the Marsh Creek so called, of less width than four rods: Provided nevertheless, that such highways, roads and streets be not less in width than fifty feet, any law to the contrary notwithstanding.

# CAP. XIII.

An Act to authorise the extension of the Gaol limits in the City and County of Saint John.

Passed 22d July 1837.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and may be lawful for the Justices of the Peace of the City and County of Saint John, at any General Sessions of the Peace or Special Sessions for that purpose to be holden, to extend the limits of the Gaol of the said City and County to such parts of the City not now included as to them may appear proper.

II. And be it enacted, That this Act shall be and continue in force till the first day of April, which will be in the year of our Lord one thousand eight hundred and thirty nine.

# CAP. XIV.

An Act in further amendment of the Law relating to Nuisances in the Parish of Portland, in the County of Saint John.

Passed 22d July 1837.

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That the provisions of the second section of an Act made and passed in the last Session of the General Assembly, intituled "An Act in amendment of an Act, intituled 'An Act to prevent nuisances within the City of Saint John and Parish of Portland, in the County of Saint John,'" shall extend and be construed to extend to that part of the said Parish of Portland which lies to the westward of the Marsh Creek so called, and between that Creek and the Mill Bridge, any thing in the said recited Act to the contrary notwithstanding.

# CAP. XV.

An Act for the appointment of Firewards and the better extinguishing of fires which may happen in the Parish of Portland, in the County of Saint John.

Passed 22d July 1837.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That the Lieutenant Governor or Commander in Chief for the time being, is hereby empowered by and with the advice of His Majesty's Executive Council, from time to time, by warrant under his hand and seal, to appoint a sufficient number of prudent and discreet persons as Firewards, not exceeding six, resident in that part of the Parish of Portland lying to the westward of a line running north and south through the aboideau at the marsh creek so called, who shall be sworn to the faithful discharge of their duty before one of His Majesty's Justices of the Peace of the City and County of Saint John, and a certificate thereof endorsed on the several warrants of appointment, for which warrants and certificates no fees shall be demanded or received from the person so appointed and sworn.

II. And be it enacted, That in order that the said Firewards may be distinguished from others when on duty at a fire, and to enable them to communicate their directions with more facility, they shall each carry a staff seven feet in length, coloured red, and also a speaking trumpet, painted white, with the name of the Parish and district painted on it in black letters.

III. And be it enacted, That whenever a fire shall break out in the said district, or part of the said Parish described in the first section of this Act, and during the continuance thereof, the said Firewards are hereby authorized and required jointly or separately to command assistance for extinguishing the fire, and removing household stuff, furniture, books, public stores, goods and merchandize, out of any houses, store houses and other buildings actually on fire or in danger thereof, and to appoint persons to take care of the same, and also to require assistance to prevent the further spreading of the fire in the said district, and to prevent tumults and disorders in the same; and the said Firewards respectively are hereby required, upon the notice of fire breaking forth in the said district (taking their badges and trumpets with them), immediately to repair to the place, and vigorously to exert their authority in requiring assistance, and use their utmost endeavours to extinguish the fire and prevent its spreading, and to preserve and secure property and effects, both public and private; and due obedience is hereby required to be yielded to them, and each and every of them accordingly for that service, as well by the person or persons having the charge and management of any Engine or Engines in the said district, as all other persons whomsoever.

IV. And be it enacted, That for every refusal or neglect of any person to obey the order of any Fireward in performing any of the duties and ser-

VICES hereinbefore mentioned, such person shall forfeit and pay a sum of money not less than ten nor more than forty shillings, to be recovered upon conviction before any one of His Majesty's Justices of the Peace of the City and County of Saint John, on the oath of a Fireward or any other credible witness, and levied by distress and sale of the offender's goods, and chattels, and for want of sufficient distress such offender shall suffer ten days imprisonment unless the penalty and costs be sooner paid; which penalty when recovered shall be paid into the hands of the Firewards of the said district, or their treasurer for the time being, to be applied by them towards defraying the necessary expense attending the keeping the Engine or Engines of the said district in a proper state of repair and equipment, and any other necessary expense attending the keeping of the Fire Company of the said district in a proper state of organization.

V. And whereas it is necessary that prompt and implicit obedience should at all times during the raging of a fire be paid to the directions of the Firewards: Be it enacted, That the said Firewards respectively or any or either of them, shall have power and they and every of them are hereby authorized, when such necessity shall exist, to require and compel the persons present at any fire to fall in and form a line or ranks for the conveyance of water for extinguishing the fire, and to remain in such ranks as long as it may be deemed necessary; and if any person present at a fire shall refuse to fall in and remain in any such rank when thereunto required by any Fireward, such person so offending shall for each and every offence forfeit and pay the sum of not less than ten shillings nor more than forty shillings, to be recovered, levied and applied in the manner specified and provided in and by the fourth section of this Act.

VI. And be it enacted, That the Firewards or any two or more of them are hereby authorized and empowered from time to time and at all seasons in the day time, to enter into any house, shop or other buildings within the limits of the said district, and to examine and inspect the manner in which any stove or stove pipes are set up, placed, fixed or carried, or any hearths, fire places or chimneys constructed or built, and if such stove or stove pipes, or such hearth, fire place or chimney shall be found (in the opinion and judgment of such Firewards or any two of them, and in case more than two be present, the major part of those present) so set up, placed, fixed or carried, constructed or built as to be dangerous, such Firewards are hereby authorized and empowered to give directions in writing to prevent the continuance of fire in any such stove or any such hearth, fire place or chimney, until the same shall have undergone such alterations as shall be pointed out in writing by the same Firewards; and any person or persons who shall disobey any such directions of such Firewards, shall for each and every offence, forfeit and pay the sum of three pounds, to be recovered and applied in manner aforesaid.

VII. And be it enacted, That the Firewards of the said district shall at any meeting to be for the purpose holden, nominate and appoint by warrant under the hands and seals of them, or the hands and seals of the major part of them present, a sufficient number of able and discreet men willing to accept, not exceeding twenty in number to each Engine, being inhabitants of the said district or part of the Parish of Portland aforesaid, to have the care management and working of the said Engine or Engines, tools and instruments for extinguishing fires which may happen within the same, and to remove and displace any or all of them from time to time, and to nominate and appoint others in their stead, and to fill up any vacancy which may happen at any time by death or removal or otherwise; and that the names of the said persons so appointed shall from time to time as the appointment shall be made be registered with the Clerk of the Peace in the said City and County upon the certificates of the said Firewards, and to be called the Firemen of Portland, and are hereby enjoined and required to be ready as well by night as by day to manage, work and use the Engine or Engines, tools and instruments for extinguishing fires which may happen to break out in the said district, which Firemen each and every of them from time to time during the continuance of being in office as such Fireman or Firemen and no longer shall be and are hereby declared to be freed, exempted and privileged from being compellable to serve in the militia except in cases of invasion or other imminent danger.

VIII. And be it enacted, That it shall and may be lawful for the Firewards for the time being of the said district, at any meeting to be holden at which the major part shall be present, to make and establish such rules, orders and regulations, in respect of the government, conduct, duty and behaviour of the said Firemen in working, managing, exercising, keeping and using the Engine or Engines, tools and instruments, and to impose and establish such reasonable fines and penalties upon them or any of them for default or neglect of the duties and services thereby to be enjoined or required from them as the said Firewards or the major part of them present met as aforesaid shall from time to time think meet, so that the fine or penalty shall not exceed in any one instance the sum of forty shillings, to be recovered and applied as in the fourth section of this Act; which rules, orders and regulations shall be notified to the said Firemen by putting the same up at the Engine house or Engine houses, and inserting the same in one or more of the newspapers published in the said City and County.

IX. And be it further enacted, That within three months after the passing of this Act, every household within the said district or part of the said Parish shall provide himself or herself with two good leather buckets of sufficient size to hold two and a half gallons of water each, with the name of the proprietor thereof painted on the side of each of the said buckets, to be kept always ready in some convenient place as near the outer door of his or her house, opening towards the street or road near which the same house may be placed as may conveniently be, and that on any alarm of fire in the said district, every household shall forthwith carry his or their buckets so provided as above directed, or cause the same to be carried to the place where the fire may be, to be there used as occasion may require, and every person wilfully refusing or neglecting to perform any of the duties by this section imposed, shall for every such offence forfeit and pay a sum of money not less than ten shillings nor more than forty shillings, to be recovered and applied in like manner as the forfeitures mentioned in the fourth section of this Act are directed to be recovered and applied.

# CAP. XVI.

An Act to enable the Proprietors or Shareholders of a Company, called "The Bank of British North America," to sue and be sued in this Province, in the name of the Manager or of any one of the local Directors for the time being of the said Company.

Passed 22d July 1837.

**WHEREAS** certain persons in England and in this Province have formed themselves into a Company or Partnership called or known by the name of "The Bank of British North America," for the purpose of establishing and carrying on Banks of Issue and Deposit at various Cities, Towns and Places, as well within this Province as within other British settlements and colonies in North America, and have subscribed and paid a considerable sum of money in order to carry on the business of the said Bank: And whereas it is expected that the public interests of this Province will be greatly benefited by the operations of the said Company: And whereas inconveniences may hereafter arise in recovering debts due to the said Company, and also in enforcing claims for or on account of the said Company, and generally in suing and being sued, and also in prosecuting persons who may steal, injure or embezzle the property of, or who commit any other offence against the said Company, since by Law all the proprietors or shareholders for the time being of the said Company ought in such cases to sue and be sued, and prosecute by their several distinct names; wherefore, for obviating and removing the inconveniences aforesaid:

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act all actions and suits whatsoever at law or in equity which may be brought, instituted or prosecuted within this Province, against any person or persons already indebted or who may hereafter be indebted to the said Company called "The Bank of British North America," and all actions, suits and other proceedings whatsoever at law or in equity within this Province, for any injury or wrong done to any real or personal property of the said Company, in whomsoever the same may for the time being be vested, whether in the said Company or some person or persons in trust for, or for the use and benefit of the said Company, or to or with any person or persons whomsoever in trust for, or for the use and benefit of the said Company or wherein the said Company is or shall be interested, and generally all other proceedings whatsoever at law or in equity within this Province, wherein the said Company is or shall be concerned or interested, against any person or persons, or body or bodies politic or corporate or others, whether such person or persons or any of them, or such body or bodies politic or corporate, or

any member or members thereof respectively, is or are or shall be a proprietor or proprietors or other holder or holders of any share or shares in the said Company or not, shall and lawfully may be commenced, instituted and prosecuted in the name of the manager or of any one of the local directors of the said Company in this Province at the time when any such action or suit, or other proceeding shall be commenced or instituted, as the nominal plaintiff, pursuer or complainant, or as acting in any other character for or on behalf of the said Company; and all actions, suits or other proceedings at law or equity within this Province to be commenced, instituted or prosecuted against the said Company by any person or persons, or body or bodies politic or corporate whether such person or persons, or such body or bodies or any member or members thereof, is or are or shall be proprietor or proprietors, or other holder or holders of any share or shares in the said Company or not, shall and lawfully may be commenced, instituted and prosecuted against one of the local directors or the manager of the said Company in this Province, at the time when any such suit or action or other proceeding shall be commenced or instituted, as the nominal defendant, respondent or defender in such last mentioned actions, suits or proceedings, for or on behalf of the said Company; and the death, resignation or removal, or any other act of such manager or local director shall not abate or prejudice any action, suit or other proceeding in law or equity, commenced or instituted under this Act, but the same may be continued, prosecuted, carried on or defended in the name of any other local director or of the manager for the time being of the said Company.

II. And be it enacted, That from and after the passing of this Act, it shall be lawful for the said Company, by any local director or manager for the time being of the said Company to prefer any indictment or information or other criminal proceeding in any court or courts in this Province against any person or persons, for any offence already committed or which shall hereafter be committed against the said Company, and in all indictments, informations and other proceedings against any person or persons whomsoever, for feloniously taking, stealing or embezzling, damaging or destroying, or for any offence whatsoever, relating to any goods, chattels, notes, bills, bonds, deeds or any securities, monies and effects, or any real or personal property whatever, of or belonging to the said Company, such goods, chattels, notes, bills, bonds, deeds, securities, monies, effects and property respectively may be laid and stated to be the goods, chattels, notes, bills, bonds, deeds, securities, monies, effects or property respectively of "The Bank of British North America;" and it shall not be necessary to state in any such indictment, information or other proceeding the name or names of all or any of the persons now or at any time hereafter constituting the said Company; and any offender or offenders shall or may thereupon be lawfully convicted in as effectual a manner to all intents and purposes as if the names of all the persons constituting the said Company were inserted in such indictment, information or other proceeding, or in any proceeding or proceedings consequent or attendant thereon.

III. And be it enacted, That any person being or having been a proprietor or other holder of any share or shares in the said Company, and having any claim or demand upon the Company or the funds or property thereof on any account whatsoever, may for such claim or demand commenced, prosecute and carry on any action, suit or other proceeding either at law or in equity, within this Province against any local director or the manager for the time being of the said Company, as the nominal defendant, respondent or defender; and any local director or the manager for the time being of the said Company, may as the nominal plaintiff, pursuer or complainant commence and carry on in his own name any action, suit or other proceeding at law or in equity in this Province against any individual proprietor or other holder of any share or shares in the said Company against whom the said Company may have any claim or demand, and all such actions, suits and other proceedings shall be as valid and effectual as if all the proprietors or other holders of shares in the said Company had been made parties thereto; and every judgment, decree and order made therein shall be binding for or against the said Company, and all the proprietors or other holders of shares in the said Company; and no abatement shall arise from the death, resignation or removal or any other act of the said local director or manager pending any such action, suit or other proceeding, but that the same may be continued, defended, prosecuted or carried on in the name of any other local director or manager of the said Company for the time being.

IV. Provided always and be it further enacted, That every person being a proprietor or other holder of any share or shares in the said Company shall in all cases be liable to be sued, prosecuted or proceeded against by or for the benefit of the said Company under the powers of this Act, by such actions, suits or other proceedings in such and the same manner, as effectually and with such and the same legal consequences as if such person had not been a proprietor or other holder of any share or shares in the said Company.

V. And be it further enacted, That execution upon any judgment in any action or suit, or other proceedings under this Act obtained against any local director or manager for the time being of the said Company, whether as plaintiff or as defendant, may be issued against any proprietor or proprietors, or other holder or holders for the time being of any share or shares in the said Company: Provided, always that in case such execution against any proprietor or proprietors, or other holder or holders of any share or shares in the said Company, shall be ineffectual for obtaining payment of and satisfaction for the sum or sums sought to be recovered thereby, it shall be lawful for the party or parties who shall have obtained a judgment against any local director or manager for the time being of the said Company, to issue execution against any other person or persons who was or were a proprietor or proprietors, or other holder or holders of any share or shares in the said Company at the time the contract or contracts were or were entered into, upon which such action, suit or other proceeding shall have been brought or instituted; but no such execution as last mentioned shall be issued without leave first granted by the court in which such action, suit or other proceeding may have been brought or instituted, or leave shall be applied for upon motion to be made in open court, on notice to the person or persons sought to be charged: Provided also, that nothing herein contained shall render such past proprietors liable for payment of any debt for which such action, suit or other proceeding may have been brought to which they would not have been liable by operation of law as partners, in case any action, suit or other proceeding had been originally brought against them for the same: Provided also, that nothing in this Act contained shall be deemed or taken to enable any plaintiff or defendant in any action, suit or other proceeding under this Act to recover from any proprietor or other holder for the time being of shares in the said Company, or any other person whomsoever, any greater sum or sums of money than such proprietor or other holder or person would or might have been liable to pay, either at law or in equity, under any contract for the time being subsisting, if this Act had not been passed.

VI. And be it enacted, That all and every judgment or judgments which shall at any time after the passing of this Act, be obtained or recovered in any action, suit or other proceeding in law or equity against any local director or manager of the said Company, shall have the like effect and operation upon and against the funds or property of the said Company, as if such judgment or judgments had been recovered or obtained against the said Company in any action, suit or proceeding in law or equity brought or commenced against the said Company, by or in the several and distinct names of the several proprietors or other holders of shares, and as if this Act had not been passed.

VII. And be it enacted, That this Act and the provisions herein contained shall extend to the said Company called "The Bank of British North America," at all times during the continuance thereof, whether the said Company hath been heretofore from time to time, or shall hereafter be composed of all or some of the persons who were the original proprietors thereof, or of all or some of those persons, together with some other person or persons, or whether the said Company be at the time of passing this Act, composed altogether of persons, who were not original proprietors of the Company or whether the said Company shall hereafter be composed of persons who were not original proprietors thereof, or of persons all of whom shall have become proprietors of the said Company subsequently to the passing of this Act.

VIII. And be it further enacted, That nothing herein contained shall extend to incorporate the said Company, or to relieve or discharge the said Company, or any of the proprietors or other holders of shares in the said Company from any responsibility, contract, duty or obligation whatsoever to which by law they, he or she now are or is or at any time hereafter may be subject or liable either as between such Company and other parties, or as between the said Company and any of the individual proprietors or other holders of shares in the said Company and others, or as between or among themselves or in any other manner howsoever.

(To be continued in next Gazette.)