

## **Moncton Consolidation Act**

An Act to consolidate and amend certain Acts relating to the City of Moncton

Preamble.

Section.

1. Continuation of City as body corporate and politic.
2. Boundaries.
3. Division into wards.
4. Administration.
5. Qualifications of Mayor and Aldermen.
6. Disqualification in certain cases.
7. Elections.
8. Notices of election.
9. Nominations.
10. Certificate of qualification.
11. Holding of poll.
12. Polling booths.
13. Equipment.
14. Who entitled to be in polling booth.
15. Ballots.
16. Instruction re marking ballot.
17. Ballot to be initialled by polling officer.
18. Method of marking ballot.
19. Disposition of ballot.
20. Polling officers entitled to vote.
21. Poll list.
22. Delivery of ballots.
23. Voter's oath.
24. Where elector may vote.
25. Fraudulent voting; penalty.
26. Poll clerk.
27. Poll list.
28. Incapacitated voter.
29. Interpreter.
30. } Advance Poll
31. } Oath of office.
32. } Refusal to take oath.
33. } Resignation.
34. } Disqualification.
35. } Vacancy.
36. } Term of office.
37. } Remuneration.
38. } Travelling expenses.
39. } Qualification of voter.
40. } List of electors.
41. } Preparation and posting of list; omission.
42. } Women included equally with men.
43. } Protested elections.
52. Meetings of Council.
53. Deputy Mayor.
54. Quorum.
55. Minutes of meetings.
56. Adjournment.
57. Appointment of Committees
58. Appointment of officers.
59. Bonds of officers.
60. Receiver of taxes.
61. Treasurer.
62. Power to make by-laws.
63. Streets.
64. Regulation of traffic.
65. New streets.
66. Claim for damages.
67. Sidewalks.
68. Assessment on owners of Real Estate.
69. Collection of assessment; tenants under renewable leases.
70. Sewers.
71. Assessment on owners of real estate or lease holders.
72. Collection of assessment.
73. City Council authorized to fix rates of frontage.
74. Application to sewers already constructed.
75. City Council authorized to make regulations re sewers.
76. Interpretation of terms.
77. City market.
78. License to sell outside market.
79. Expiration of license fee.
80. Inspection of premises.
81. Unlicensed selling an offence; penalty.
82. Recovery of penalties.
83. Market Clerks to have powers to constables.
84. City Council authorized to effect temporary loans.
85. Evidence of loan.
86. Temporary loans in place of debentures.
87. Special constables.
88. Penalty for refusal to act.
89. Penalty for violation of duty.
90. Bond by constable.
91. Bond files with City Clerk; oath.
92. Action on Bond.
93. Recovery of judgment.

## Section

- 94. Licensed auctioneers.
- 95. License fee; percentage to City.
- 96. Bond by auctioneer.
- 97. Statement of sales by auctioneer.
- 98. Police Magistrate.
- 99. Jurisdiction.
- 100. Oath of office.
- 101. Court constituted.
- 102. Before whom affidavit may be sworn.
- 103. Sitting Police Magistrates.
- 104. Hours for Police Court.
- 105. Police Magistrate prohibited from private practice.
- 106. Police Magistrate exempted from making certain returns.
- 107. Inquiry by Police Magistrate of complaint against official.
- 108. Police Magistrate authorized to enforce attendance of witnesses.
- 109. Disposition of fines and penalties, etc.
- 110. Present incumbents continued.
- 111. Lock-up.
- 112. Keeper of lock-up.
- 113. Police Force.
- 114. Oath.
- 115. To have powers of constable.
- 116. Arrest of vagrants, etc.
- 117. Arrest in other cases.
- 118. Right of Police Officer to enter premises.
- 119. Lock-up to be lawful place of committal.
- 120. City Council empowered to make regulations re Police Force.
- 121. Remuneration to Police Officers.
- 122. Prohibition against payment of money to Police Constable; prohibition against engaging in other business.
- 123. Resignation of Policeman
- 124. Dismissal or suspension.
- 125. Penalty for violation of duty.
- 126. Penalty for offence under Sec. 117
- 127. Juvenile Court.
- 128. Civil Court.
- 129. Constitution of Civil Court.
- 130. Sitting Police Magistrate may act.
- 131. Executions.
- 132. Protection of Commissioner issuing execution.
- 133. Jurisdiction.
- 134. Oath of office.
- 135. Summons may be signed in blank; endorsement.
- 136. Who may conduct suits in City Court.
- 137. Right of abandonment.
- 138. Non-suit in case of lack of jurisdiction.
- 139. Judgment in default on liquidated demand.
- 140. Action against corporations outside City.
- 141. Application of Judicature Act.
- 142. Action by Assignee.
- 143. Assignments to be set out in claim.
- 144. Sale of chattels taken under execution.
- 145. Action to be tried in City when both parties are residents.
- 146. Before whom affidavits may be sworn.
- 147. Application of Justice' Civil Courts Act re Arrest in Civil Actions.
- 148. How processes to be entitled; service, etc.
- 149. Return of process.
- 150. Affidavit of service.
- 151. Court fees; Counsel fee.
- 152. Right of review.
- 153. Prohibition against holding Civil Court by unauthorized person.
- 154. Appointment of Commissioner of City Court.
- 155. Re-appointment of present Commissioners.
- 156. Disposition of fees and costs in civil cases.
- 157. Fire stations.
- 158. Firemen to be City constables.
- 159. By-law re fire escapes.
- 160. Fire investigations.
- 161. Fire limits.
- 162. Restrictions on building materials.
- 163. Saving of by-laws.
- 164. Offensive occupation to be a public nuisance.
- 165. Illegal building to be nuisance.
- 166. Erection of nuisance an offense; penalty.
- 167. Building permit.
- 168. Building without permit, an offense; penalty.
- 169. Contravention of Act an offense.
- 170. Inspector of buildings.
- 171. Salvage corps and fire police.
- 172. Assessment for equipment and maintenance.
- 173. Members to be City constables.
- 174. Interference with member an offense; penalty.
- 175. Building zones.
- 176. Violation of zone, an offense; penalty.
- 177. Almshouse.
- 178. Control by City Council.
- 179. Almshouse commissioners.
- 180. Personnel of Commissioners.
- 181. Oath of office.
- 182. Chairman of Commissioners.
- 183. Matron.
- 184. Annual statement.
- 185. Disposition of profits.
- 186. Inspection of almshouse.
- 187. Admission to almshouse.
- 188. Application of Acts.
- 189. Maintenance outside almshouse.

190. Commissioners not to hold office of employment  
Section

- 191. Acquisition or erection of almshouse.
- 192. Disposal of garbage.
- 193. By-laws re collection.
- 194. Assessment for cost of operation.
- 195. Illegal disposition of garbage, an offense.
- 196. Pension fund.
- 197. Power to assess.
- 198. Power to hold plebiscite.
- 199. Prohibition of service stations.
- 200. License for service station.
- 201. Interpretation of "service station".
- 202. Unlicensed operation, an offense; penalty.
- 203. Officers re water and lighting system.
- 204. Duties of Engineer.
- 205. Security by officer.
- 206. Duties of accountant.
- 207. Water permit.
- 208. Obtaining water without a permit an offense; penalty.
- 209. Wasteful use of water.
- 210. Non-payment of water rates.
- 211. Water rates.
- 212. Fee for restoring water service.
- 213. Payment of expense of establishing water service.
- 214. Prohibition against use of City water by plasterers, etc., without permit.
- 215. Right of action against owner for water rates.
- 216. No action for stoppage of water through repairs.
- 217. Council may refuse connection with improper plumbing.
- 218. Application for permit.
- 219. Report by plumber.
- 220. Wilful damage to water pipe, etc., an offense; penalty.
- 221. Unauthorized opening of hydrant, an offense; penalty.
- 222. Charge against non-user of City water.
- 223. Vacancy.
- 224. Right of action for water rates.
- 225. Book entries to be prima facie evidence.
- 226. Council authorized to make by-laws re water rates.
- 227. Water and Light Committee.
- 228. Lien for water rates.
- 229. Service of notice.
- 230. Assistant accountant, water and light department.
- 231. Power to borrow re water and lighting system.
- 232. Power to make contracts with non-resident consumers.
- 233. Application of Acts.
- 234. Inspection of books.
- 235. Suspension of civic employee.
- 236. Account books, etc. to be deposited in office of Clerk; right of inspection.
- 237. Recovery of fines, etc.
- 238. Certified copy of by-laws to be evidence.
- 239. Execution of process by constable, etc.
- 240. Right to retain money.
- 241. Purchase of land for park.
- 242. Right to give grants of money.
- 243. License fees.
- 244. City passenger busses.
- 245. Fixed valuations not be apply to school taxes or County rates.
- 246. Penalties under Act.
- 247. Schedule of Acts repealed.
- 248. Short title.

# MONCTON CONSOLIDATION ACT

Assented to April 17th, 1946

WHEREAS the City of Moncton has deemed it desirable to consolidate and amend the certain Acts of the Legislative Assembly relating to the said City, the amendments being to effect the following purposes:

- (a) To clarify and make more explicit the said Acts insofar as they relate to the nomination, election and term of office of the Mayor and Aldermen, and to the Police Force.
- (b) To revise the salaries and other allowances to the Mayor, Aldermen, Police Magistrates, Juvenile Court Judge and Commissioner of the City Court of Moncton.
- (c) To simplify the proceedings necessary to be taken in acquiring lands for street and sewer purposes, and to make the proceedings of The Arbitration Act applicable thereto.
- (d) Generally to re-arrange and revise the said Acts as to modernize the same and bring them up to date.

Be it therefore enacted by The Lieutenant-Governor and Legislative Assembly as follows:

1. (1) This Act may be cited as The Moncton Consolidation Act, 1946. 1948, C. 123, s. 1.

(2) From and after the passing of this Act, the City of Moncton, a Corporation, incorporated under Chapter 60 of 53 Victoria, (1890), entitled, "An Act to Consolidate and Amend the Several Acts of Assembly Incorporating or Relating to the Town of Moncton" shall continue to be a body corporate and politic with perpetual succession and shall not be or be deemed to be a new corporation, and as such shall have all the rights, gifts, charters, grants, powers, liberties, privileges, franchises, customs, usages, constitutions, immunities, markets, duties, tolls, lands, tenements, estates and hereditaments which the said corporation had or has by letters patent, grant, charter, gift or any law or otherwise howsoever and now existing and capable of taking effect, and nothing in this Act contained shall in any way affect any conveyance, lease or estate heretofore granted by The Town of Moncton, the Town Council of the Town of Moncton, The City of Moncton, or the City Council of the City of Moncton, or any by-law or ordinance of the City Council of The City of Moncton now in force in said City, or any liabilities or contracts of the said corporation now existing, or any suit, action or proceeding pending at the time when this Act shall come into force, but the same shall continue as if this Act had not been passed and any new Act or proceeding by or against the said corporation shall be done and heard by the name "The City of Moncton" . 1890, C.60, s.1.

## City of Moncton Boundaries

2. (1) The said City of Moncton shall comprise all that part of the Parish of Moncton, in the County of Westmorland, described as follows:

COMMENCING at a point on the Petitcodiac River at the Mouth of Jonathan Creek in the Parish of Moncton;

THENCE following the course of the Petitcodiac River easterly to the mouth of Hall's Creek;

THENCE following the several windings of the West Branch of Hall's Creek to a point where the course of Hall's Creek is intersected by the northerly side line of the Canadian National Railway's Main Line right-of-way;

THENCE in an Easterly and Northeasterly direction along the said northerly- side line of the Canadian National Railway's Main Line right-of-way to an intersection with the Westerly prolongation of the Northerly side line of the Lewisville School District No. 10;

THENCE in an easterly direction along the Westerly prolongation of the centre line of Victoria Street; and along the easterly prolongation thereof and along the north side line of the Lewisville School District No. 10 to a point where the northerly side line of the Lewisville School District No. 10 intersects the Easterly side line of lands now or formerly owned by E. H. Hopper;

THENCE northerly along the East side line of the lands of the said E. H. Hopper to its intersection with the Westerly prolongation of the North side line of the lands now or formerly known as the MacLean Estate thence Easterly along the Westerly prolongation of the North side line of the said MacLean Estate lands and along the north side line of the said MacLean lands to its intersection with the West side line of lands now or formerly owned by John Gibson;

THENCE in a Northwesterly direction along the West side line of the said John Gibson lands, or its prolongation Northwesterly, to an intersection with the centre line of Humphrey Brook (sometimes referred to as Mill Creek);

THENCE Northeasterly upstream and following the various windings of the Centre line of the said brook to its intersection with the West side line of the lands now or formerly known as the Old Gould Lot;

THENCE Northerly along the Westerly side line of the said Gould Lot to its intersection with the Northerly side line of the lands now or formerly known as the Daniel Filimore Lot No. 51;

THENCE westerly and southerly along the northerly and westerly side lines of the said Fillmore Lot to a point on the north side line of the J. R. Gray Lot No. 23, so-called, now or formerly owned by John Kelly, or the easterly prolongation thereof;

THENCE westerly, southerly and westerly along the north side line of the J. R. Gray Lot and its prolongation to its intersection with the centre line of Irishtown Road; thence northerly along the centre line of said Irishtown Road to its intersection with the easterly prolongation of the south side line of lands now or formerly owned by Zoel Girouard;

THENCE westerly along the easterly prolongation of the south sideline of the said Zoel Girouard lands to its intersection with the west side line of lands now or formerly owned by John Kelly;

THENCE southerly along the west side line of lands of the said Kelly and along its southerly prolongation to its intersection with the easterly prolongation of the south side line of lands now or formerly owned by John Brown;

THENCE westerly along the said easterly prolongation and along the south sideline and along the westerly prolongation of the said Brown lands to its intersection with the centre line of McLaughlin Road;

THENCE southerly along the centre line of the said McLaughlin Road to its intersection with the easterly prolongation of the north side line of lands now or formerly owned by Ernest Kelly;

THENCE westerly along the easterly prolongation and along the north side line of the said Ernest Kelly lands and along its westerly prolongation to its intersection with the west side line of the City of Moncton lands being the easterly side line of the Verdun School District No. 33;

THENCE southerly along the west side line of the said City of Moncton lands, to the southerly side line of the said City of Moncton lands;

THENCE easterly along the south side line of the said City of Moncton lands to its intersection with the north Branch of Hall's Creek;

THENCE southerly following the several windings of the north Branch of Hall's Creek to the confluence of the north and west Branches of Hall's Creek, (sometimes called the fork of Hall's Creek);

THENCE northwesterly following the several windings of the West Branch of Hall's Creek to the point where Rabbit Brook joins Hall's Creek;

THENCE in a westerly direction along the various windings of Rabbit Brook to that point west of Mountain Road where Rabbit Brook is two hundred fifty feet (250') north of the north side line of Ryan Street, formerly called Jones Road;

THENCE in a westerly direction and remaining constantly two hundred fifty feet (250') north of the north side line of Ryan Street formerly called Jones Road, to that point, approximately four hundred feet (400') east of the northwest Branch of Jonathan Creek, where an intersection is made with the northerly prolongation of the easterly side line of lands presently owned by the City of Moncton under deed of Manzer Steeves on February 13th, 1915;

THENCE in a southerly direction and following along the easterly side line, and the prolongation thereof, of the aforesaid lands of the City of Moncton to an intersection with the north side line of the Canadian National Railway's right-of-way (formerly the National Trans-continental Railway);

THENCE in an easterly direction along the northerly side line of the Canadian Railways right-of-way aforesaid a distance of six hundred one feet (601') to a point;

THENCE in a southerly direction and parallel to the easterly side line of the aforementioned City of Moncton property a distance of two hundred and seventy feet (270') more or less, to an intersection with the north side line of the Canadian National Railway Main Line right-of-way;

THENCE in a southeasterly direction along the easterly side line of the Canadian National Railways Main Line right-of-way to its intersection with the northerly side line of the Canadian National Railway's (Saint John Subdivision) right-of way at McKinnon;

THENCE in an easterly direction and along the northerly side line of the Canadian National Railways right-of-way to an intersection with the prolongation southerly of the centre line of Milner Road so-called;

THENCE southerly along the said southerly prolongation of the centre line of Milner Road in a straight line to the Petitcodiac River;

THENCE following the course of the Petitcodiac River easterly to the place of beginning. 1956, C. 116 s. 1.

(2) The Chairman of the Board of Assessors and the Secretary-Treasurer of the Municipality of Westmorland shall furnish to the Chairman of the Board of Assessors of the City of Moncton all information, records, returns of property, or other data in their possession regarding the said area, which may be required by the Board of Assessors of the City of Moncton. C. 125, s. 1.

(3) The authority and jurisdiction of any Board of School Trustees of any School District other than the Board of School Trustees of Moncton within the above described area is hereby cancelled, revoked and annulled and all land and premises vested in any other such Board and all property and rights belonging thereto shall vest in and become the property of the Board of School Trustees of Moncton. 1955, C. 125, s. 1.

3. The City of Moncton is hereby divided into three wards, to be severally bounded as follows:

The first, to be called Ward One, and to include all that portion of the City of Moncton, lying to the east and the north of the following described line:

COMMENCING at the point of intersection of the west and the north branches of Hall's Creek;

THENCE southeasterly along Hall's Creek to the centre line of Archibald Street; thence southerly along the centre line of Archibald Street and the prolongation thereof to the centre line of Foundry Street;

THENCE southerly and southeasterly along the centre line of Foundry Street to the northerly boundary line of the Petitcodiac River.

The second, to be called Ward Two, and to include all that portion of the City of Moncton, lying to the south and to the west of the following described line:

COMMENCING at the intersection of the northerly boundary line of the Petitcodiac River with the centre line of Foundry Street;

THENCE northwesterly and northerly along the centre line of Foundry Street to an intersection with the southerly prolongation of the centre line of Archibald Street;

THENCE northerly along the southerly prolongation and the centre line of Archibald Street to the centre line of Mountain Road;

THENCE northwesterly along the centre line of Mountain Road, to the centre line of Bonaccord Street;

THENCE southerly along the centre line of Bonaccord Street to the centre line of John Street;

THENCE westerly along the centre line of John Street and the prolongation thereof to the southerly boundary line of the Regional Shops property, Canadian National Railways;

THENCE northwesterly along the southerly boundary line of the Regional Shops property, Canadian National Railways to an intersection with the northerly side line of the Canadian National Railways, National Transcontinental Railway Right-of-Way, so called; THENCE westerly along the northerly side line of the Canadian National Railways, National Transcontinental Railway Right-of-Way, so called, to the westerly boundary line of the City of Moncton, near Odlum Junction.

The third, to be called Ward Three, and to include all that portion of the City of Moncton, lying to the north and to the west of the following described line:

COMMENCING at the point of intersection of the west and the north branches of Hall's Creek;

THENCE southeasterly along Hall's Creek to the centre line of Archibald Street; thence southerly along the centre line of Archibald Street, to the centre line of Mountain Road;

THENCE northwesterly along the centre line of Mountain Road to the centre line of Bonaccord Street;

THENCE southerly along the centre line of Bonaccord Street to the centre line of John Street;

THENCE westerly, along the centre line of John Street, and the prolongation thereof to the southerly boundary line of the Regional Shops property, Canadian National Railways;

THENCE northwesterly along the southerly boundary line of the Regional Shops property, Canadian National Railways to an intersection with the northerly side line of the Canadian National Railways, National Transcontinental Railway Right-of-Way so called;

THENCE westerly along the northerly side line of the Canadian National Railways, National Transcontinental Railway Right-of-Way, so called, to the westerly boundary line of the City of Moncton, near Odlum Junction.

This section shall be deemed to have come into force on the 31st day of December, 1957. 1958, C. 119 s. 1.

4. The administration of the fiscal, prudential, and municipal affairs of the said City, shall be vested in one principal officer, who shall be styled the Mayor of the City, and eight other persons, two of whom shall be biennially elected from each Ward, and two shall be biennially elected from the whole City, in same manner as the said Mayor is elected, as in this Act prevail," and who shall be styled Aldermen of the City of Moncton, and in no other power or authority whatever; and the said Mayor and Aldermen shall constitute the City Council of the City of Moncton; and all by-laws, ordinances, rules and regulations made by the said Council shall be expressed therein to be enacted by the City Council of the City of Moncton- 1893, C. 48, S. 1. 1957, C. 123, S. 1.

#### **Qualification of Mayor and Aldermen**

5. (a) No person shall at any time be qualified to be elected or to serve as Mayor or Alderman for the said City of Moncton unless at the time of his election he shall be a British subject, resident within the said City, of the full age of twenty-one years, and shall have been assessed in the City Assessment at the time the Assessment Roll for the year next preceding the year of such election was filled with the Receiver of Taxes under the provisions of Section 34 of The City of Moncton Assessment Act, upon real estate or personal estate, or both, within the said City, to the value of

Fifteen Hundred Dollars or upwards, and shall have paid on or before the Thirty-first day of December of the year next preceding the year of such election all rates and taxes legally due by him within the said City. 1952, C. 74, S. 1.

(b) Females, whether married or unmarried, having the qualifications required of males to serve in the office of Mayor or Alderman for the City of Moncton, shall be eligible for and may be elected to serve as Mayor and Aldermen of the City of Moncton, 1936, C. 87, S. 3 (b).

6. No person shall be qualified to be elected or to serve as Mayor or Alderman so long as he shall hold any office or place of profit in the gift or disposal of the Council, or during such time as he shall directly or indirectly otherwise than as a shareholder in an incorporated company, have any interest in any contract made with the City of Moncton, or with any one on behalf of the Council, or shall be a defaulter for any taxes, fines or moneys due the City, or a minister, priest or ecclesiastic of any religious denomination, or person accountable otherwise than as a ratepayer for the City revenues or any part thereof, nor shall any person be so qualified, who has at any time within three months previous to the day of election been or during his term of office, may be convicted of having violated any Act for the regulation of the sale of intoxicating liquors, or convicted on indictment of any criminal offense, nor shall any person presiding at any election of Mayor or Alderman while so presiding, or any Clerk or assistant employed by him at such election while so employed, be so qualified. 1890, C. 60, S. 6.

7 (1) There shall be biennial elections of Mayor and Aldermen of the City of Moncton held in alternate years on the third Saturday in October in each alternate year at such convenient places in each of the several wards and before such Polling Officers as shall be appointed for that purpose by the City Council and sworn to the faithful discharge of their duties by the City Clerk and in the case of the neglect or refusal of the City Council to appoint such places and polling officers at least twelve days before the election then such places may be fixed and such Polling Officers shall severally receive the sum of Ten Dollars for their services.

(2) The first biennial election of Mayor and Aldermen of the City of Moncton shall be held on the third Saturday in October 1965.

(3) In the event that the third Saturday in October is a statutory holiday, the election shall be held on the fourth Saturday in October. 1963 c.77

8. Public notice of the time and places for holding every election shall be given by the City Clerk by publishing notice in one or more of the newspapers printed in the said City for not less than ten days previous to such election. 1935, C. 86, S. 5.

9. Nominations of persons duly qualified for the respective offices of Mayor and Aldermen of the City of Moncton, signed by two or more duly qualified electors of said City, with the acceptance of such nomination written thereon, signed by the person therein nominated, together with the certificates and deposit mentioned in Section 10 of this Act, shall be filed with the City Clerk or at his office in the City of Moncton, not later than six o'clock in the afternoon of the Monday of the week next preceding the week in which Polling day of the biennial election of Mayor and Aldermen of the said City falls. 1957, C. 123, S. 3.

10. No nomination paper shall be valid or acted upon by the City Clerk unless it is accompanied by a Certificate signed by the Chairman of the Board of Assessors certifying that the person therein nominated was assessed in the city Assessment at the time the assessment roll for the year next preceding the year of such election was filed with the Receiver of Taxes under the provisions of Section 34 of the City of Moncton Assessment Act upon real estate or personal property, or both, within the said City to the value of Fifteen Hundred Dollars or upwards; a

certificate signed by the Receiver of Taxes for the said City certifying that the person nominated in the said nomination paper paid all rates and taxes legally due by him within the City of Moncton on or before the thirty first day of December of the year next preceding the year of such election; and a certificate signed by the Accountant of the Water and Light Department of said City certifying that the person named in such nomination paper is not on the day of the filing of said nomination indebted to the Water and Light Department of the City of Moncton; and a deposit of Twenty-five Dollars of legal tender or a cheque in favour of The City of Moncton for that amount drawn upon and accepted by any Chartered Bank doing business in Canada. Should any candidate withdraw his nomination from such election, he shall forfeit such deposit to the City of Moncton for the use of the said City. In all other cases the sum so deposited shall be returned to the parties depositing the same forthwith after the polling date of such election. 1952, C. 74, S. 2.

11. If a greater number of persons are nominated for any of the said offices than are required to fill the same, the City Clerk, not later than nine o'clock in the forenoon of the day of such election, shall notify the polling officers of the different Wards of the persons so nominated for said offices, and shall cause the names of the different candidates for said offices to be posted in some conspicuous place in each Ward where such election is to be held; and every polling officer shall thereupon at nine o'clock in the forenoon of the said polling day, open a poll for the election of persons from among the candidates so nominated for said offices so to be filled as aforesaid, and shall keep the same open until six o'clock in the afternoon of the said day. 1890, C. 60, S. 9.

12. The poll at the election of Mayor and Aldermen shall be held in each of the several Wards, in a room or building of convenient access, with an outside door for the admittance of voters, and having, if possible, another door through which they may leave after having voted. 1957, C.123, S.4.

13. The room in which the election is held shall contain a screened compartment, in which shall be placed a table with a hard smooth surface, and with a pencil of black lead, with which each voter shall mark his or her ballot. 1918, C. 82, S. 4.

14. No person except the Polling Officer, the Poll Clerk, the Candidates and one agent for each candidate shall be permitted to remain in the polling booth during the time the poll remains open; provided, always, that any elector bearing a written authorization from the candidate shall always be entitled to represent such candidate in preference to, and to the exclusion of any other elector who might also claim the right to represent such Candidate. 1918, C. 82, S. 6.

15. All elections for Mayor and Aldermen shall be by ballot. The City Clerk shall prepare a list or ballot from plain white paper for each ward of the candidates for the respective offices of Mayor and Aldermen, signed by the Clerk, and furnish the polling officers of the different wards with printed copies thereof to be supplied by the polling officers to the electors for the purpose of voting at all elections for Mayor and Aldermen, or either or any of them. 1890, C. 60, S. 10.

16. The Polling Officers shall instruct the elector how and where to affix his mark, and shall properly fold the elector's list or ballot paper, directing him to return it, when marked, folded as shown, but without inquiring or seeing for whom the elector intends to vote, except when the elector is unable to vote in the manner prescribed by this Act on account of inability to read, blindness or other physical incapacity.

17. Such printed list or ballot shall be initialled by the Polling Officer and supplied by him in the polling booth to each elector desiring to vote, and no other printed list or ballot shall be used at any election. 1918, C. 82, S. 7.

18. Each voter on receiving the said list or ballot shall forthwith proceed to the screened compartment in the room in which the election is held and there mark his ballot paper by making a cross with a black lead pencil opposite the name of each candidate for whom he intends to vote and he shall then fold the said list or ballot paper as directed and deliver same to the polling officer.  
1921, C. 58, S. 1.

19. The Polling Officer shall ascertain if possible, without unfolding it, by examining the initials appearing thereon, that it is the same paper as that delivered to the elector, and if the same, he shall forthwith in full view of the elector and all others present deposit said list or ballot in the ballot box, but should he discover the same not to be single, he shall immediately reject the ballot and the party who tendered the same shall be deprived of his vote at that election, and if in sorting the ballots it should be found that a ballot is double or more than one has been so folded together and deposited, or if any paper purporting to be a ballot should be found not to be one of such printed lists, all such ballots shall be wholly rejected, or if any ballot shall be marked indicating a voting for a greater number of candidates than are to be elected for such ward, such ballot shall not be counted for the office or offices in respect to which such irregularity refers, but shall be counted for the office or offices for which the names of the proper number of candidates appear thereon, properly marked as aforesaid. An elector who has inadvertently dealt with the said list or ballot paper delivered to him, in such manner that it cannot conveniently be used, shall restore it to the polling officer who shall deface it in such manner as to render it a spoiled ballot. The polling officer shall then deliver another ballot paper to the elector. 1890, C. 60, S. 11.

20. The Polling Officers at any election of Mayor and Aldermen, or any or either of them, shall not be disqualified from voting at such election as electors, by reason of being such officers.  
1890, C. 60, S. 12.

21. The name of each elector voting at such election shall be written in a poll list, and after the close of the poll the Polling Officer shall forthwith open the ballot box, conduct the counting of the ballots and ascertain the number of ballots cast for each candidate, and as soon as possible thereafter he shall make return thereof under his hand, of said election to the City Clerk, who shall at the Council Chamber at the hour of six o'clock in the afternoon of such election day or as soon thereafter as practicable, declare the candidate or candidates having the greatest number of votes duly elected; provided, however, in case an equal number of votes shall have been cast for two or more candidates for any office, the City Clerk shall give the casting vote or votes, and declare such candidate or candidates for whom he shall give such vote or votes duly elected. In case no more candidates are nominated for any office than are necessary to fill the same, a poll shall not be held in their case, but the City Clerk shall when making the declaration aforesaid, also declare such candidate or candidates duly elected. 1890, C. 60, S. 13.

22. The Polling Officers shall preserve all rejected ballots and shall deliver the same, together with the good ballots and poll list with their returns for said elections to the City Clerk as soon as possible after the close of the polls, to remain in the office of the City Clerk for a period of three months from the date of the election. 1911, C. 89, S. 2. 1947, C. 118, S. 1.

23. No person shall be allowed to vote at any such election unless his name shall appear on the list of voters for the Ward in which he claims to vote, and such elector shall, if required by the Polling Officer, or by any one of the candidates, or his agent make oath or affirmation before the Polling Officer in the form following, that is to say:—

"I A. B., do solemnly swear (or affirm) that I am a British Subject of the full age of twenty-one years, that I am the person named in the list of voters, that I have not before voted in any Ward at this election—So help me God."

which oath or affirmation, the Polling Officer is hereby authorized to administer, and in every case where the elector shall have been sworn as aforesaid, the Poll Clerk shall note the same in his poll book. 1947, C. 118, S. 2.

24. At any such election, every elector shall vote in the Ward in which he resides, and not elsewhere, except as provided by Section 49 of this Act, and non-residents shall vote in the Ward in which their property lies, but no person shall vote at any one election in more than one Ward. Non-residents having property in more than one Ward may notify the Clerk of the Ward in which he desires to vote, and the Clerk shall enter his name on the list for that Ward. 1890, C. 60, S. 16.

25. If any person shall fraudulently vote at any such election by personating any elector, or being qualified shall vote more than once at any election for Mayor or Aldermen, he shall for every such offence be liable to a penalty not exceeding One Hundred Dollars. 1890, C. 60, S. 17.

26. Before the day appointed for holding any election, the City Council shall appoint a poll clerk for each Polling Booth in each of the several wards, who shall be sworn to the faithful discharge of his duty before the polling officer for the Polling Booth for which he is appointed, which oath the said several polling officers are hereby authorized to administer. The said several poll clerks shall be paid for their services a sum not in excess of eight dollars each per day. 1950, C. 99, S. 1.

26A. (1) Before the day appointed for holding an election, the City Council may appoint one or more constables for duty at the various polling stations, who shall be sworn to the faithful discharge of their duty before the polling officer for the polling station for which they have been appointed. A constable shall be paid for his services eight dollars per day. 1965, C.81

(2) Nothing in this section is intended to make it mandatory that a constable be appointed for each polling station. 1965, C.81

27. No elector shall be permitted to vote unless his name be found on the list of electors delivered by the City Clerk to the polling officer for the Polling Booth in the Ward where he claims to vote, and the polling officer shall mark off the name of each person as he deposits his ballot from the list. The poll clerk shall enter on the poll list the name of each elector voting, and any other fact the Polling Officer may require him to note, and shall perform the duties of the Polling Officer if required and assist in counting and tallying the ballots. 1890, C. 60, S. 19.

### **Incapacitated Voter**

28. (1) The Polling Officer on the application of any elector who is unable to read or write, or is incapacitated from any physical cause other than blindness from voting in the manner prescribed by this Act, shall require the elector making such application to make oath that he is incapable of voting without assistance by reason of being unable to read or write, or by reason of physical incapacity, and shall thereafter assist such elector by completing his ballot paper in the manner directed by such elector in the presence of the poll clerk, of the sworn agents of the candidates and interpreter if required and shall place such ballot in the ballot box.

(2) The Polling Officer shall either deal with a blind elector in the same manner as with an illiterate or otherwise incapacitated elector, or, at the request of any blind elector who has taken the oath that he is so incapacitated, and is accompanied by a friend, shall permit such friend to accompany the blind elector into the voting compartment and assist in completing the elector's ballot paper for him. No person shall, at any election, be allowed to act as the friend of more than one blind elector.

(3) Any friend who is permitted to complete the ballot paper of a blind elector as aforesaid shall first be required to take an oath that he will keep secret the name of the candidate or candidates for whom he completes the ballot paper of the blind elector on whose behalf he shall act, and that he has not already acted as the friend of a blind elector for the purpose of assisting in completing his ballot paper at such election.

(4) The poll clerk shall enter in the poll list opposite the name of an elector voting in the manner provided in this section, in addition to any other requisite entry, the nature of his incapacity and the name of the person, if any, acting as the friend of such elector.

### **Interpreter**

29. (1) Whenever the polling officer does not understand the language spoken by any elector, he shall, if possible, appoint an interpreter who shall be the means of communication between him and the elector with reference to all matters required to enable such elector to vote.

(2) The interpreter shall make oath (or affirm) that he will faithfully translate such oaths, declarations, questions and answers as the polling officer shall require of him to translate at such election.

### **Advance Poll**

30. Notwithstanding anything contained in this Act, an advance poll shall be established for each of the several wards in the City of Moncton for the purpose of receiving the votes of such voters as are hereinafter mentioned and whose names appear in the respective lists of voters for each of the said wards provided for such election. 1938, C. 89, S. 23.

31. There shall be one polling station for each ward of the City of Moncton at which ward voting at the advance poll for the electors of that ward shall be held. The City Council may by resolution determine where the respective polling stations may be held. There shall be one polling officer appointed by the City Council to preside at each polling station and that polling officer shall be the polling officer presiding over each and every polling box located at the polling station. The City Council shall appoint a Poll Clerk and may appoint a constable to assist each polling officer at each polling station who shall perform such duties as are ordinarily required of such officers at a regular civic election and, except as herein otherwise provided, the voting at an advance poll shall in all respects be conducted in the same manner as a poll at a regular civic election of Mayor and Aldermen. 1965, c. 81

32. The advance poll shall be opened at the hour of eleven o'clock in the forenoon and shall remain open until the hour of eight-thirty o'clock in the afternoon on the Thursday of the week next preceding the week in which the day established by law for holding civic elections for the offices of Mayor and Aldermen of the City of Moncton fall. 1956, C. 121, S. 3.

33. The privilege of voting at advance polls shall extend to any person who is duly qualified to vote at the election of Mayor and Aldermen of The City of Moncton, and who is crippled, blind or infirm or who has reason to believe that he will be absent on polling day from, and unable to vote on that day in, the City of Moncton, or who, on account of his religious beliefs, cannot vote on a Saturday. 1957, C. 123, S. 13.

34. (1) No person shall be entitled to vote an advance poll nor shall be permitted to do so unless:

(a) he makes oath before the polling officer for the polling station,

- (i) that he is a duly qualified ratepayer of the City of Moncton and is entitled by to vote at the election;
- (ii) that he is the person refer to by the entry on the list voters prepared for use at election;
- (iii) that he is crippled, blind infirm, or, because of his employment, or for other good cause, he anticipates that will be absent from the City of Moncton on the regular poll day, or, that he will be un to vote on the regular poll day for any of the foregoing reasons, or, that on account of his religious beliefs he cannot vote on a Saturday; and
- (iv) that he is aware that, having voted at the advance poll, he is thereby not entitled to vote on the polling day of the regular election; and

(b) the polling officer for the polling station certifies in writing that the person is qualified to vote at the advance poll.

(2) The polling officer shall immediately forward to the City Clerk each and every certificate issued by him under this section. 1965, C.81

35. Every such advance poll certificate shall be numbered consecutively by the City Clerk whose duty it shall be to cause notice of such issue to be given before the hour of the opening of the polls on polling day to the polling officer having charge of the poll at which the person obtaining such certificate would in the ordinary course, be entitled to vote. Such notice shall be effectively given by delivery to the polling officer of a copy of the list of voters ordinarily entitled to vote at the polling station in question upon which the names of the persons to whom advance poll certificates have been issued, have been stricken out and a note "Advance Poll Certificate" or "A. P. C." has been made followed by the initials of such officer. 1938, C. 89, S. 28.

36. No person who has obtained an advance poll certificate shall be entitled to vote on the polling day except upon his producing such certificate and delivering the same up to the polling officer at the polling station, and who is in possession of the list upon which the name of the person mentioned in the said certificate appears, and makes oath, if required, before the polling officer that he is the person named in such certificate. 1938, C. 89, S.29.

37. At the close of the advance poll, the polling officer shall in the presence of the Poll Clerk, the candidates or their agents, or of such electors representing the candidates as may be entitled to be present and are present, seal each of the said ballot boxes and the said polling officer and such candidates or their agents or electors representing the candidates as are present and who may desire so to do, may affix their respective signatures to the sealing of the said ballot boxes in such manner that the said boxes cannot be opened or anything deposited therein or removed there from without breaking such seals. 1938, C. 89, S.30.

38. The said advance polling officer shall at six o'clock in the afternoon of polling day, attend with his poll clerk at the polling station where the advance poll was held and there in the presence of such of the candidates and their agents as may attend, open the ballot boxes in the order of the several wards in the City, beginning with ward one, and shall conduct the counting of the Ballots in each of the said ballot boxes, and shall forthwith thereafter make return thereof to the City Clerk as required by law. 1956, C. 121, S. 4.

#### **Oath of Office**

39. Every person elected to the office of Mayor or Alderman, within fifteen days after his election, shall accept the office to which he shall be elected, and take and subscribe the following oath of office before any Justice of the Peace, or any other person authorized to administer oaths, that is to say:—

"I, A. B., do solemnly swear (or affirm) that to the best of my knowledge and belief, I am qualified as by law required in every respect for the office of Mayor or Alderman (as the case may be) to which I have been elected, and that I will diligently, faithfully and impartially and to the best of my ability, discharge the several duties which appertain to the said office of Mayor or Alderman (as the case may be) while I hold the same—So help me God."

1890, C. 60, S. 20.; 1950, C. 99, S. 3.

40. If any person duly elected to the office of Mayor or Alderman shall neglect or refuse to take the oath of office within the time limited, the said office shall be deemed vacant, and shall be filled by a new election to be made in the manner hereinafter provided. 1890, C. 60, S. 21.

41. Any person holding the office of Mayor or Alderman may resign the said office by delivering to the City Clerk a notice of such resignation in writing, signed by him, which resignation shall be laid before the Council at its next meeting, and such office shall thereupon become and be vacant, and shall be filled by a new election to be held in the manner hereinafter provided. 1890, C. 60, S. 22.

42. If any person holding the office of Mayor or Alderman shall be declared a bankrupt or shall apply to take the benefit of any Act for the relief of insolvent debtors, or shall remove his residence to a place without the limits of the City, or shall be absent from the City, or from the meetings of the City Council for more than two months at any one time, (except in cases of illness or by leave of the City Council first obtained), then and in every such case such person shall thereby vacate his said office, and the office shall be filled by a new election made in the manner hereinafter provided. 1890, C. 60, S. 23.

43. If, prior to six months preceding a date upon which a regular election for Mayor and Aldermen is to be held, the office of Mayor or Alderman should become vacant through death, resignation, or otherwise, the Mayor, or in the case of his absence, or, if there is no Mayor, then any three of the Aldermen shall by order in writing within ten days after the vacancy occurs direct the City Clerk to cause a by-election to be held within thirty days to fill the said vacancy, and public notice of the time and place of such by-election shall be given by the city Clerk, and the nomination of candidates and proceedings in such election shall be in the manner hereinbefore provided for in case of the biennial election of Mayor and Aldermen. (c.81, 1965)

44. The term of office of the retiring Mayor and Aldermen of the City of Moncton shall expire on Friday next following the election of their respective successors in that year. Nothing herein contained shall render any person holding any such office ineligible for re-election of the City Council. 1956, C. 121, S. 5

45. The Mayor and each of the Aldermen of the City of Moncton may be paid such salary as shall be fixed by the City Council which shall be payable in such manner and at such times as the City Council shall determine, provided, however, that the salary of the Mayor shall not exceed Two Thousand and Five Hundred Dollars per annum and the salary of each of the Aldermen shall not exceed One Thousand Dollars per annum. 1955, C. 123, S. 2.

46. The City Council of the City of Moncton may pay out of the revenues of the said City to any of its members delegated as a representative on behalf of the City and who represent the City at any meeting, convention or other assembly, whether it be held within or outside of the City of Moncton, a reasonable sum for travelling expenses, if supported by vouchers, and a sum no exceeding Ten Dollars per day for his services while performing his duties as such delegate. Provided, however, that any member of the City Council while in attendance as a representative of the City at the sessions of the City Council and committee meetings of the City Council held between sessions for the County of Westmorland shall receive Ten Dollars only per day in addition to any amount payable to him from the Municipality of Westmorland. 1955, C. 123, S.3.

### **Qualification of Voter**

47. (1) No person shall be qualified to vote at any election for Mayor and Aldermen, or either, unless he is a British Subject of the full age of twenty-one years, and shall have been assessed on the Assessment Roll for the year preceding the election year upon real estate within the City of Moncton of a value of one hundred dollars or more, or upon a business tax of a value of one thousand dollars or more, or upon a poll tax, or upon a motor vehicle, and, shall have paid all rates and taxes assessed against him, or such part thereof as is hereinafter provided, on or before five o'clock in the afternoon of the thirty-first day of December next preceding the date upon which any such election is held.

(2) Notwithstanding subsection (1), any person assessed upon real estate or upon business tax shall be qualified to vote at any election if he shall have paid all of the any poll tax and motor vehicle tax which may have been assessed against him on or before five o'clock in the afternoon of the thirty-first day of December next preceding the date upon which any such election is held.

(3) Notwithstanding the provisions of this section, any person shall be entitled to vote if, by affidavit duly sworn and filed with the City Clerk at least ninety days before the election date, he establishes: -

- (a) that he is a British subject;
- (b) that he has reached the age of sixty-five years;
- (c) that he has been a resident of the City of Moncton continuously since he reached sixty-five years of age;
- (d) that he was assessed for five consecutive years previous to the year in which he reached sixty-five years of age and that he has paid all such rates and taxes;
- (e) that he is not otherwise entitled to vote at the election; and
- (f) that he does not now owe any rates or taxes to the City of Moncton.

(1965 C.81)

### **List of Electors**

48. (a) The City Clerk of the City of Moncton shall, on or before the last Wednesday in August in each year in which a biennial election is held, prepare an alphabetical list of each ward of all electors qualified as provided by this Act to vote at such election in each ward in said City, to be taken from the last general Assessment Roll preceding such election, filed in the Office of the Receiver of Taxes, and shall post the list for each of said wards in some public place in such ward not later than the last Wednesday in August, and shall give public notice, in such manner as the

Council may direct, of the place where such list is posted and that same is subject to revision up to and including the first Wednesday in September. (C.77, 1963)

(b) When a by-election is to be held, the City Clerk shall use the voters list prepared for the last preceding biennial election for Mayor and Alderman. (C.81, 1965)

49. It shall be the duty of the Chairman of the Board of Assessors and the Receiver of Taxes to assist the City Clerk in the preparation of the said lists of Electors, and to furnish him with all information in their possession as to the residence and qualification of the electors. Such lists shall be open for public inspection without charge up to and including the Monday next following the date of posting as required by Section 48 of this Act in each year in which a biennial election is held during which time any person properly qualified, and whose name may have been omitted, shall upon satisfactory proof of the same to the City Clerk, have his name inserted therein, and any elector whose name shall have been placed in the wrong Ward, shall upon satisfactory proof to the City Clerk, have his name inserted in the list of the Ward in which he resides and is entitled to vote, and any non-resident elector having property in more than one Ward may direct the Clerk in writing to place his name on the list of the Ward in which he wishes to vote, and City Clerk shall furnish the polling officer appointed to hold such election in each Polling Booth in each Ward with a list so revised of the electors for such Polling Booth of such Ward, at least twenty-four hours before the time appointed for holding such election, and no person whose name is not upon such list so revised and furnished shall be entitled to vote in such Ward at such election; provided, always, that if the name of any elector is not on the list for the Ward in which he resides he may vote in any other Ward on the list for which his name does appear. The said lists so furnished shall be, for all the purposes of accepting or refusing the ballot of any person wishing to cast the same, registers of voters at such election. 1957, C. 123, S. 7.

50. All Laws relating to Civic elections within the City of Moncton and the qualification of electors to vote at such elections shall ceteris paribus apply to and be binding upon women equally with men and all women equally whether married, single or widows. 1916, C. 82, S. 20.

### **Protested Election**

51. (1) Any candidate at any election for Mayor or Alderman, or any elector who had a right to vote and did vote thereat, may within ten days after the day on which the City Clerk shall declare the result of such election, apply to the Judge of the Westmorland County Court, hereinafter called "the Judge," for a scrutiny of the votes polled for any candidate or candidates at such election, to be named by him, and an investigation of the circumstances of such election. Upon it being made to appear to the Judge, by affidavit, that there are reasonable grounds for such scrutiny, or for entering into such investigation, he shall appoint a time and place for hearing the matter, not later than one month after the day of such election, and notice thereof shall be given to the City Clerk and such other persons as the Judge shall direct. The City Clerk shall attend before the Judge at the time and place appointed for such investigation, with the ballots, papers, books, and other documents used in connection with the election, the investigation of which is being made, and such other papers and documents as the Judge shall direct, and the Judge shall thereupon proceed to investigate the circumstances of such election, and may, if he thinks advisable, proceed in a summary way to count the votes polled thereat. At the conclusion of the investigation the Judge shall report in writing to the City Council whether the Mayor or Alderman whose election and return is in dispute was duly elected, and returned, or whether such election is void and should be set aside, or whether the person whose election is in dispute is entitled to retain his seat, or whether some other and what person is entitled to the seat. If it shall appear by the report of the Judge that any candidate at any such election, who was declared by the City Clerk duly elected and returned, and whose election is

in dispute, is not entitled to retain his seat, and that some other person who was a candidate at such election is entitled to the seat, the City Council shall, by resolution, declare the election of the Mayor or Alderman whose election is in dispute, to be void, and the person reported by the Judge to be entitled to the seat, duly elected Mayor or Alderman, as the case may be, and thereupon the person so declared to be elected shall, upon taking and subscribing the oath prescribed by Section 39 of this Act, be deemed to be and be duly elected and qualified to act as Mayor or Alderman for the then current year. If the Judge finds that the election of any person who has been returned as Mayor or Alderman at any election is void and should be set aside, the City Council shall, by resolution, declare his election void and direct a new election to fill such vacancy, which election shall be held in the manner provided by this Act. The Judge may make an order at any time before or during any investigation requiring any person to attend such investigation as a witness, and it shall be the duty of such person on being paid or tendered with fees equal to five cents a mile going and returning between the place of service and the place of return of such order to attend such investigation and give evidence thereat. Any witness so served refusing to attend and give evidence may be punished by attachment for contempt, which attachment shall be issued by the Clerk of the Westmorland County Court, on an order to be made by the Judge on an affidavit of the facts. The Judge is hereby authorized to administer any necessary oaths in any such investigation. 1911, C. 89, S. 5.

(2) The provisions of the New Brunswick Elections Act in force at the time of holding any such investigation insofar as the same relate to corrupt practices, the penalties provided therefor and the powers conferred upon the Judge under the provisions of the said Act relating to holding such investigation, making his finding and report thereon insofar as they are not inconsistent with the provisions of sub-section (1) of this Section, shall be applicable to civic elections in the City of Moncton.

### **Meetings of Council**

52. The Mayor may call meetings of the City Council whenever he thinks proper, and he shall call a meeting thereof whenever a requisition is presented to him for that purpose, signed by any three members of the Council. In case of the death, disqualification, resignation or absence of the Mayor or his refusal to call a meeting upon such a requisition any three members of the said Council may call such meeting. Any such direction or requisition for a meeting shall be given to the City Clerk, who shall thereupon issue notices therefor. 1890, C. 60, S. 31.

53. The City Council of the City of Moncton shall, at the first meeting following each biennial election or some subsequent meeting, elect and choose, by a majority of votes of the members present, one of the Aldermen to be Deputy Mayor. It shall be the duty of the Deputy Mayor to preside at all duly summoned meetings of the City Council in the absence from the Council of the Mayor for the time being; and the Deputy Mayor, so presiding in the absence from the Board of the Mayor, shall be while in the chair, fully invested with all the powers and authorities that appertain to and may be exercised by the Mayor of the said City as presiding officer, and no other; and the City Council shall be, in such case, for all purposes as fully and duly organized as if the Mayor were in person presiding. And in case of the absence from the City of the Mayor, or his inability to act, the Deputy Mayor shall, during such absence or inability of the Mayor be vested with all the power and authority that appertains to and may be exercised by the Mayor, and the action of the Deputy Mayor in such case shall have the same effect and legality as if the Mayor had acted in person. 1957, C. 123, S. 8.

54. In all meetings of the City Council four Aldermen and the Mayor or Deputy Mayor shall constitute a quorum for the transaction of business, and a majority of the members present shall determine the questions and matters submitted for consideration, except as provided in Section 54A. The Mayor, if he be present, shall preside, in case of his absence the Deputy Mayor shall pre-

side. The Mayor, or in his absence the Deputy Mayor, shall not vote upon any question except in case of equal divisions of those members present when he shall have the casting vote. All meetings of the City Council shall be public.

1953, C. 69, S. 2.

54. (A) All motions for capital expenditures not approved by the Finance Committee shall require a two-thirds vote of the Whole Council to approve such expenditure and the Mayor, or in his absence the Deputy Mayor, shall vote on such motions. 1958, C. 60 S.33

55. The City Clerk shall keep minutes of the proceedings of all meetings of the Council in a book to be kept for that purpose, in which he shall enter the names of the members present at such meetings, and the persons whose names have been entered shall be deemed to be present to all intents and purposes, except for the purpose of voting, until the meeting shall be finally adjourned or dissolved by the presiding officer. The minutes of the proceedings entered in such book as aforesaid shall be signed by the Mayor or Deputy Mayor and such book shall be open to the inspection of any elector. 1890, C. 60, S. 33.

56. Any meeting of the City Council may be adjourned from time to time as the Council may determine. 1890, C. 60, S. 34.

57. The City Council may appoint from its own body such Committees, consisting of such number of persons as the Council may think fit for the discharge of such business and duties as the Council may prescribe, subject in all things to the approval, direction and control of the Council. In all questions coming before such committees a majority shall decide, and a majority of the members of every such Committee shall constitute a quorum. At every meeting of a Committee of the City Council, the Chairman shall have the right to vote on all matters. 1890, C. 60, S. 35.

### Appointment of Officers

58. (1) The City Council may appoint from time to time a City Clerk, a City Administrator, a City Manager, a Treasurer, a Receiver of Taxes, a Purchasing Agent, a Clerk of the Markets, a Chief of the Police Force, a Chief of the Fire Department and a Deputy or Deputies to each or any of said Officers; a City Engineer, a Street Commissioner, and an Electrician, and an Assistant to each or all of them; they may also appoint a City Solicitor, an Auditor, Municipal Home Commissioners, and so many Policemen, Constables, Weighers of Hay, Straw and Coal, Surveyors and Measurers of Lumber and Wood, Collectors of Rates and such other officers and employees as may be deemed necessary to carry out the powers vested in the City Council, and from time to time to remove or displace any of the said officers, deputies or employees and appoint others in their stead, and to impose penalties for the non-performance of duties or the misdoings of such officers, and to grant compensation to such officers for their services as the said Council may think fit, and to define their duties and respective terms of office; provided that no person of whom an oath is required by the City Council shall be capable of acting in any office to which he may be appointed until he shall have been sworn or have affirmed before the Mayor or any other person authorized to administer oaths, that he will diligently, faithfully and impartially, and to the best of his ability, discharge the duties appertaining to the office to which he has been appointed so long as he shall hold the same. The City Council is hereby authorized and empowered, if it sees fit, to appoint one person to fill any two or more of the offices hereinbefore in this section mentioned. 1958, C. 119, S. 3.

(2) Any deputy officer as named in sub-section (1) hereof or any assistants to the officers named therein shall, while acting in the office of the original appointee, have all the authority vested in the person for whom he is acting. 1950, C. 99, S. 4 (2).

### Bonds of Officers

59. No person who would by virtue of the office to which he may have been appointed be accountable for the City Revenues or any portion thereof, shall be capable of acting in such office until he shall have given security for the faithful performance of the duties of his office, which security shall be of such nature and in such form, and to such an amount as the Council may by by-law or resolution prescribe, but such security in case of the City Clerk, City Treasurer, and Receiver of Taxes shall not be less than Ten Thousand Dollars in each case. 1890, C. 60, S. 37.

60. It shall be the duty of the Receiver of Taxes to collect and receive all monies due or payable to the City for taxes and any other monies which he may be authorized by the City Council to receive for and on behalf of The said City, and to deposit the same daily to the credit of the City in the City Treasury Account in a Chartered Bank at its agency in the City of Moncton. 1890, C. 60, S.38.

61. It shall be the duty of the Treasurer to keep proper books of account, showing in detail the amounts of all receipts and expenditures of the City, and the names of all persons to whom money is paid or from whom money is received, and take vouchers for all payments and keep and preserve all other books of account and papers in connection with the financial matters of the City. He shall devote all his time to the duties of the office in such reasonable business hours as the Council may determine, and keep his office open during such hours for the transaction of business. He shall also deposit all monies received by him in a Chartered Bank to be designated by the Council, and shall sign all cheques upon such Bank for any amount which the Council may order to be paid by him, which cheques shall before payment be countersigned by the Mayor or Deputy Mayor. Notwithstanding anything in this Section or in Section 206 the lithographed signature of the Mayor, or his signature produced by other mechanical means to any cheque or cheques shall be as good and valid to all intents and purposes as if the same had been subscribed by the Mayor in his proper handwriting except where the amount payable under any such cheque is in excess of Five Hundred Dollars. 1958, C. 119, S. 4. 1975, C.72

61 A. It shall be the duty of the City Administrator to co-ordinate and exercise general supervision over City Departments; to route all matters to the proper Departments and to review such matters prior to presentation to Council or Committee for its consideration; to review all committee minutes prepared by the Deputy City Clerks before presentation to Council; and to require and see that all committees minutes have the necessary pertinent information before presentation to Council; to supervise the preparation of the annual budget under which routine the operating financial requirements of all departments will be reviewed and assembled; and to assist in the preparation of submissions to the Provincial Legislature for bond issues and other similar matters, in conjunction with the City Treasurer. 1952, C. 74, S. 5.

### By-Laws

62. In addition to any other powers given by this Act, the Council may make by-laws and regulations for the management and good order of its proceedings, and for the good rule and management of the City, and for the local, municipal, fiscal, prudential and sanitary affairs thereof, and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, the said Council is hereby empowered to make such laws as it may deem proper for the several purposes following; within the said City, that is to say:—

- (1) For the government and direction of the police force of the City.

(2) To regulate the manner of selling, weighing and measuring meat, fish, vegetables, grain, hay, straw, fodder, wood, coal and other fuel and grant licenses for the due weighing and ad-measurement thereof.

(3) To regulate the purchase and manner of selling vegetables, fruit, country produce, poultry and all other articles and things or of animals opened or exposed for sale or marketed.

(4) To regulate all vehicles and other things in which anything may be exposed for sale or marketed in any street or public place.

(5) To regulate the assize of bread, and to provide for the seizure of bread baked contrary to the provisions of any by-law to be made in that behalf, and to provide for the seizure of bread baked contrary thereto.

(6) To regulate and license cabmen or persons acting as such, carters, wagoners, porters, cartmen or hand-cartmen, the keepers of livery stables or owners or possessors of horses, carriages, or motor vehicles letting the same out for hire or profit, and to fix the fees to be paid to the City for such licenses, and also the price to be paid to such persons for hauling loads in the said City, and the quantity to compose a load, and the price to be paid for the conveyance of persons and baggage, and other services within the City.

(7) To regulate and license cabmen or persons acting as cabmen and laundrymen who have not become permanent residents of the said City, and whose names have not been entered upon the assessment list for the then current year, non-resident carters, wagoners, porters, cartmen or hand-cartmen, the keepers of livery stables or owners or possessors of horses, carriages or motor vehicles, who have not become permanent residents of said City, and whose names have not been entered upon the assessment roll for the then current year, letting the same out for hire or profit, and to fix the fees to be paid to the City for such license.

(8) To restrain, regulate and license billiard and pool rooms, taverns, bowling alleys, dance halls or other places of amusement, recreation and refreshment, and the City Council may in its discretion refuse to issue a license and revoke a license when, in its opinion, any billiard or pool room, tavern, bowling alley, dance hall, or other place of amusement, recreation and refreshment is unsanitary, unhealthful, or used for immoral purposes. 1951, C. 89, S. 5.

(9) To license, regulate or restrain public restaurants in the City of Moncton and to prohibit the use of stalls in the same, and the City Council may in its discretion refuse to issue a license and revoke a license when, in its opinion, a restaurant is unsanitary, unhealthful or used for immoral purposes. 1951, C. 89, S. 6.

(10) To restrain, regulate and license exhibitions of natural and artificial curiosities and theatres, circuses and other shows or exhibitions for hire or profit, and the City Council may in its discretion grant or refuse to issue any such license, or issue such license on any condition required by the City Council. 1950, C. 99, S. 5.

(11) To establish and regulate one or more pounds and fees to be taken thereat.

(12) To restrain, regulate or prevent the running at large of horses, cattle, swine, goats, sheep, dogs, geese and poultry, to impound the same, and to fix all fees in connection therewith.

(13) To impose a tax on the owners or harbourers of dogs, to establish a summary mode of recovering such tax, to regulate and prevent dogs running at large, and to provide for selling or killing such as are found running at large contrary to any law or by-law after public notice given. 1955, C. 123, S. 4.

(14) To abate and cause to be removed all public nuisances and all filth, snow and any other litter or debris or encumbrances of any nature and description whatsoever on the street or elsewhere within the City, and to regulate the construction of cesspools and privies on private properties. 1949, C. 119, S. 2.

(15) To cause lots within the City when they become nuisances, to be properly enclosed, cleaned or drained, or filled in to grade at the cost and expense of the owners, and to recover such expenses with costs in a summary manner. 1952, C. 74, S. 6.

(16) To prevent and control ringing of bells, blowing of horns, sounding of whistles or sirens, shouting, the use of loud speakers, public address devices and other unusual noises in the streets and other public places, immoderate driving or riding of horses or other animals within the City or for the purpose of preventing excessive noise, prohibit any excavation, building erection, demolition, alteration, or repair, or any construction work whatsoever, or the carrying on of any vehicle repair or auto repair business between the hours of 9 o'clock p. m. of any day and 7 o'clock a. m. of the next following day in any portion of the City. 1955, C. 123, S. 5.

(17) To purchase, enclose, plant, lay out and adorn any public square, park or parade for the use of the City, and to make and ordain rules for the management and preservation thereof, and to designate or determine who may use or occupy said parks or any portion thereof by age groups or otherwise. 1949, C. 119, S. 3.

(18) To prevent the injuring and destroying trees planted within any of the public streets or grounds of the City.

(19) To erect, preserve and regulate public cisterns, reservoirs, pumps, wells and other conveniences for the supply of water or for the extinguishing of fires, and to make reasonable charges for the use thereof.

(20) To establish, make and regulate public fountains, and to prevent the waste and fouling of public water.

(21) To prevent or regulate the keeping, storing or transporting of gunpowder, dynamite and other combustibles or dangerous substances, the firing of guns or other fire-arms, the firing or setting off of squibs, fireballs, rockets, crackers or other fireworks.

(22) To enforce and regulate the proper cleaning of chimneys, and to regulate and require the safe keeping of ashes in proper deposits.

(23) To prevent or regulate the use of fire, lights or candles in places where there may be combustible substances.

(24) To regulate the carrying on of trades or manufactures dangerous in causing or promoting fires.

(25) To require or regulate the construction of any chimney, flue, fire place, stove, oven, boiler or other apparatus or thing in any house, manufactory or business.

(26) To regulate the conduct and enforce the assistance of the inhabitants at fires, and for the preservation of property thereat.

(27) To make regulations for the prevention and suppression of fires, or, where a fire is raging the pulling down or demolishing of adjacent buildings or structures for the purpose of staying the progress of such fires and for compensating the owners thereof in certain circumstances.

(28) To establish and regulate the fire engine, hook, ladder and property saving Companies, and to provide for the remuneration, and afford exemptions and immunities to the officers and members thereof.

(29) To regulate the management and provide for the security of public property of any kind belonging to the City, and to provide for the permanent improvement of the said City in all matters ornamental and useful.

(30) To provide for and regulate the erection, preservation and security of lamps, lamp posts, sign boards and other fixtures within the City.

(31) To provide for and defray out of the funds of the City, the expense of lighting the same with gas, oil, electricity or otherwise, and for the performing of any kind of work required for the purpose of supplying the City with light, and for compelling the proprietaries or occupiers of real property to allow such work to be done, and to permit such fixtures to be placed in and about their premises as may be necessary for that purpose, such work and fixtures to be at the cost of said City, and to provide for the erection of all works connected with such lighting.

(32) To restrain, regulate and license the erection or continuance of bill or advertising boards within the limits of the City of Moncton, and from time to time to fix the fees to be paid to the said City of Moncton for such license.

(33) To regulate the time after which and the age under which children shall not be on the street or in a public place at night without proper guardianship, and to provide that any parent or guardian who permits any such child to be on any street or in any public place contrary to the provisions of any such bylaw shall be guilty of an offence and liable to a penalty of not more than Twenty dollars, and in default of payment thereof, to imprisonment for a term not exceeding ten days. 1949, C. 119, S. 4.

(34) To regulate and license bicycles owned and used by inhabitants of the City of Moncton, or operated therein.

(35) To regulate and license boxing matches and wrestling bouts in the City of Moncton, to appoint a commission consisting of such number of persons as the City Council may determine to supervise the same, to direct when and where such matches and bouts shall be held, in what manner they shall be conducted and require a physical examination of participants therein.

(36) To restrain, regulate and license the hawking and peddling on the streets, or from house to house, of articles of jewellery, books, pictures, picture frames and other articles, by non-residents and persons who have not become permanent residents of said City, and to regulate and license the sale of bankrupt and other stock, goods and merchandise brought into the City for sale by non-residents or persons who have not become permanent residents of said City. 1950, C. 99, S. 6.

(37) To regulate and license transient traders or other persons who occupy premises within the city for a temporary period, and whose names have not been entered on the assessment roll of the City in respect to real estate or rentals or personal property for the then current year, and who offer

goods and merchandise for sale by auction, or by private sale, or who otherwise shall carry on a trade or business, or offer goods and merchandise for sale within the City. 1952, C. 74, S. 7.

(38) To regulate and license any person not being a resident and ratepayer of the City of Moncton, who shall exercise or carry on the business of an auctioneer within the said City.

(39) To regulate and license transient contractors doing business within the City of Moncton and impose a fee of one half of one per cent of the amount of any contract taken by such contractors for each such license; not to exceed in any case the sum of One Thousand Dollars for any one contractor in any one calendar year. 1950, C. 99, S. 7.

"Transient Contractor" shall mean and include any person commencing work under the terms of any contract to be performed within the City and who has not resided continuously therein for at least three months next preceding the time of the commencement of such work.

(40) For affixing or placing numbers or other marking device in and upon buildings and/or lots upon any street, lane or alley, or in or upon any property within the City which the City Council in its discretion may deem advisable to number or mark for civic purposes, and for affixing numbers or other marking device of such size, color and in such position as the City Council may determine, in or upon such buildings and/or for the removal of existing numbers or marking device and supplying others therefor, and for charging the owner or occupant with the expense incident to the numbering or marking of his building, lot or property.

(41) To regulate and control the having, keeping, transporting, storing, using and burning of any ethylene glycol, alcohol or glycerin or any crude or refined petroleum, including gasoline, naptha, benzine, benzol, fuel oil, propane, butane or other burning fluid, gas or vapour or any lubricating or other oil, the quantity thereof, the containers in which the same shall be kept and stored, the location in which containers shall be placed within the City and the appliances installed for the use and burning of such oil, fluids, gasses or vapour. 1956, C. 121, S. 6.

(42) To regulate, license or restrain any person or persons not being a resident or residents of the City of Moncton, from engaging within the City of Moncton in any art, trade, mystery, profession, calling or occupation, or in carrying on or engaging in any profession or any mercantile or other business or engagement within said City without being licensed so to do. Nothing in this sub-section contained shall be held or taken to apply to any person or persons in the course of his or their employment with the Canadian National Railway Company.

(43) To regulate and license dealers in or keepers of shops, premises, or yards for the purpose of purchasing, selling, bartering, wrecking, or storing of junk, old metals, used car parts, auto wrecks, bottles or old papers, and second hand articles of any description and coal and fire wood; and to regulate and license such shops, premises or yards as to fencing, general appearance, emanating of loud noises, and obnoxious odours. Whenever, in the opinion of the City Council, any use of such shops, premises or yards in the City, should be discontinued, the City Council, may, by notice in writing, require the owner or occupier of such shop, premises or yard to discontinue such use. In the event of such owner or occupier failing to comply with such notice within three months after service of the same on him, the City Council is authorized to expropriate such premises so used, such expropriation to follow the same procedure as outlined in Sections 65 and 66 of this Act. 1954, C. 152, S. 3.

(43a) To regulate the keeping of music vending machines and to license persons having same on premises in their possession open to the general public. 1948, C.123, S.4.

(43b) To regulate and make provision for the homologation of streets and to provide that new buildings or additions to buildings already constructed shall be erected not less than a certain distance from a street line under the conditions of a homologation plan. 1948, C. 123, S. 4.

(43c) To regulate the burning of hay, dry grass, bushes and other inflammable materials, and to empower the Fire Chief of the City of Moncton or any person or persons designated by him to go on any vacant land to burn and destroy same. 1948, C. 123

(43d) To designate and regulate bus stops and parking areas and to erect stop signs, and to change and vary the same from time to time. The provisions of Sub-section (2) of Section 55 of the Motor Vehicle Act shall not apply to any such by-law. 1948, C. 123, S. 4.

(43e) To install and regulate the use of parking meters on the streets and parking areas in the City of Moncton and to require the owner or person in control of any motor vehicle parked on any such street or parking area to deposit the required coinage in such meter, and to prohibit any person from tampering or interfering with such meter. The provisions of sub-sections (2), (3) and (4) of Section 52 of the Motor Vehicle Act shall apply mutatis mutandis, in any prosecution for breach of the by-law made hereunder. 1948, C. 123, S. 4. 1955, C. 123, S. 6.

(43f) The provisions of sub-sections (2), (3) and (4) of Section 52 of the Motor Vehicle Act shall apply mutatis mutandis in any prosecution for a breach of a traffic or any parking bylaw made by the City of Moncton. 1955, C. 124, S. 7.

(43g) To license, regulate and control the use and location of pin ball machines and refuse to issue a license or revoke such license, when, such pin ball machine is being used by minors; and license the non-resident distributors of such machines. A Pinball machine means a machine, contrivance or device which upon an insertion therein or in a slot or receptacle thereof of any money, coin, token, counter, disc, slug, or any other article or substance, provides or may provide to the operator thereof any amusement or recreation, or may be used by the operator for the purpose of playing a game of skill, and which is not a slot machine as defined in sub-section (2) of Section 170 of the Criminal Code, Chapter 51, of 2-3 Elizabeth II (Canada). 1955, C. 123, S. 7.

(44) Whenever the Council of said City has power to regulate and license any trade, calling or occupation, and to fix the fees to be paid for a license by any person carrying on such trade, calling or occupation, the said City Council shall have full power and authority to discriminate between residents of the said City and non-residents thereof, and may from time to time fix the same or different license fees to be paid by such residents or nonresidents respectively; and generally to make all such by-laws and ordinances as may be necessary and proper for carrying into execution the powers herein vested, or that may hereafter be vested in the said City Council, or in any office or department of the said City.

(45) The City Council may by any by-law, rule or regulation impose such fines and penalties, and ordain such forfeitures as it may deem necessary for the non-observance or breach of any by-law, rule or regulation, not to exceed in any case the sum of One Hundred Dollars unless otherwise specially provided.

(45a) The said Council of the said City of Moncton shall have power, from time to time to amend, alter and repeal any of the by-laws of the said City.

(46) To regulate and control the emission of smoke, the size and type of combustion equipment and the operation thereof and the size, height and type of chimneys and smoke stacks.

(47) To provide for licensing and regulating any person engaged in electrical work within the limits of the City and to appoint suitable persons to examine, grade and qualify any such person and to recommend the issue, refusal or cancellation of a license according to such grade or qualification and to prescribe a suitable annual fee for such license or examination.

(48) To establish, regulate, participate in and contribute to a Civic Employees' Pension Scheme and if deemed advisable to appoint a Commission to administer such a scheme.

(49) To regulate and control television and radio antennae, structures carrying the same and safety equipment thereof.

62 A. The Mayor of the City of Moncton shall have full power, when authorized by the City Council at any meeting of the City Council, to proclaim civic holidays; provided, however, that the number of civic holidays so proclaimed by the Mayor shall not exceed five in number in any one year or more than one such holiday in any one month. 1948, C. 123, S. 5.

62 B. The City Council of the City of Moncton may cancel or revoke any licence issued under this Act when the licensee has violated or failed to comply with the provisions of this or any other Act relating to the matters in respect of which the licence was granted and for which the licensee has been convicted by any court of competent jurisdiction. C.111 1960-61

### Streets

63. The said Council shall have, and it is hereby invested with the sole and exclusive power to open, lay out, regulate, repair, amend and clean the streets, lanes and alleys now existing, or that may hereafter be found necessary with the said City, and of such parts of highways and by-roads (if any) as may be within the limits thereof; and of putting and building drains, sewers, culverts and bridges therein, and to prevent the encumbering of the same in any manner, and to protect the same and every part thereof from encroachment and injury, by such laws and ordinances as the said Council may from time to time enact and establish for the purposes aforesaid; and for making, flagging, planking, macadamizing, paving, raising, repairing, lighting, watching, planting and draining any or any part of the streets, squares, commons, lanes, alleys, walks, sidewalks, crossings, roads, bridges, wharves, docks, slips and shores now laid out or erected, or, hereafter to be laid out, executed, or erected within the limits of the said City, and to regulate or prevent the encumbering, injuring or fouling of the same by any animals, vehicles, vessels, craft, timber, building or other materials or things in any way or manner whatsoever; and to make, ordain and enforce by-laws and regulations for the confiscation, sale, removal or destruction of any such incumbrances or any such nuisance, and to impose penalties on the owners or persons placing the same in such places, and to levy and recover the same by distress and sale of goods, or to award punishment therefor by the imprisonment of the party offending, as may seem discreet and proper in the respective cases; and to regulate the breaking of the roads and streets of the said City in winter, and to provide for erecting, making or repairing any common sewer, drain, flagging, posts or pavements of stone, deal, plank, or other material in any public square, street or place, and for directing and causing the removal at any time of any erections, projections or obstruction whatsoever which may project into or over any public street, square or road, at the expense of the proprietors or of the occupants of the real property in or on which such erection, projection or obstruction may be found; provided that nothing in this Act contained shall extend or be construed to extend to authorize the opening of any streets, roads or highways through the private property of any person or persons, without complying with the provisions of this Act for the awarding of damages to any person or persons who may be injured thereby. 1890, C. 60, S. 49.

63A. The City may, when authorized by resolution of the City Council, place islands, erections, installations or other structures or traffic control, which may be necessary or advisable for properly

regulating traffic on any or all streets in the City and the City may further authorize the installation and operation of automatic street traffic control lights and may enact by-laws with respect thereto. 1949, C. 119, S. 7.

63B. The City Council may, by a majority vote, designate vacant land within the City upon which snow may be piled or thrown without being liable for payment or compensation therefor. 1949, C. 119, S. 7.

63C. The City Council may by a majority vote license persons encroaching on City property and prescribe an annual fee for each such license, and any such license so granted shall be revocable at any time by the City Council. 1950, C. 99, S. 8 (1), (2).

This section on coming into force shall be deemed to have effect as from the Fifteenth day of December, 1949, and all acts and things done in conformity or substantial conformity therewith subsequently thereto are hereby ratified and confirmed and shall have effect accordingly.

63D. The City Council of The City of Moncton may prohibit by by-law any machinery or equipment using caterpillar or crawler type traction or using steel wheels with protruding lugs or flanges from being propelled or driven over any paved street of The City of Moncton unless properly protected with devices approved of by the City Engineer, to prevent damage to pavements. 1951, C. 89, S. 9.

63E. Notwithstanding the provisions of Sec. 63C and in addition to any authority conferred by said Section 63C, the City Council by a majority vote may permit the putting of overhead and underground constructions and erections, and the necessary supporting construction therefor over, on and under any street and to authorize the City of Moncton to enter into agreements with any person or persons in respect thereof; and upon consideration, terms and conditions and for such period of time as the said Council by said vote may determine. Nothing in this section shall be deemed to affect the rights of section shall be deemed to affect the rights of any electric power or any telephone company. C. 127 1960

64. The City Engineer of the City of Moncton shall have power from time to time, to regulate the traffic on any street or highway, and to close temporarily to public travel any street or highway, or portion thereof, within the City of Moncton when considered dangerous or for the purpose of making repairs or doing other necessary public work, or for any cause which he may deem sufficient, subject at all times to the approval of the City Council.

### New Streets

65. Whenever in the opinion of the City Council of the City of Moncton, to be expressed by resolution to that effect, it shall be necessary to lay out, widen, alter or extend any public street or highway over any lands in said City, whether the same be improved, built upon or vacant, the said Council shall cause its City Engineer or some other person appointed by it for that purpose, to lay out such proposed street or proposed widening, alteration or extension by metes and bounds, and such engineer or other person appointed as aforesaid may enter upon such lands and premises as they may deem necessary for that purpose, and make any survey and measurements thereof and ascertain the boundaries of the lands so required, and thereupon by a further resolution of the said City Council, set forth the metes and bounds of any such lands and premises so proposed to be taken and declare that the City takes and appropriates for the purposes aforesaid, or any of them, such lands and premises so laid off by metes and bounds; and thereupon the said City shall file in the office of the Registrar of Deeds for the County of Westmorland, copies of such resolutions certified by the City Clerk with description of the lands and premises so taken, and upon the filing

of the said resolutions with the description as aforesaid, the said lands and premises shall vest absolutely in the City of Moncton, its successors and assigns. Notice of such expropriation containing a brief description of the said lands sufficient to indicate the same shall be published in a newspaper in the City of Moncton within ten days after such filing. 1890, C. 60, S. 50.

65A. The City may, when authorized by resolution of the City Council, purchase, lease, expropriate or otherwise acquire land and prepare, construct and maintain buildings thereon for offstreet parking purposes, and may assess annually therefor. Such expropriation to follow the same procedure as outlined in Sections 65 and 66 of this Act. 1954, C. 152, S. 5.

65B. The City Council of the City of Moncton is hereby authorized and empowered by by-law or regulation to compel and require the owner of every building or structure hereafter erected as residential flats or apartments of not less than a six family tenancy to provide adequate automobile parking space or storage, appurtenant to their premises within 100 feet of such residential flats or apartments for use by tenants. 1950, C. 99, S. 9.

65C. The City Council of The City of Moncton is hereby authorized and empowered to make by-laws or regulations to compel and require the owner of every building or structure hereafter erected or altered for use, in whole or in part, for manufacturing, storage, warehouse, department store, wholesale store, market, hotel, hospital, mortuary, laundry or dry-cleaning purposes, or for any other purpose involving the use of vehicles for the receipt or distribution of materials or merchandise in such numbers and in such location as to constitute a serious interference to traffic, to provide and maintain, on lands appurtenant to or adjoining such building or structure, adequate space for such vehicles to stand and for loading and unloading the same. 1950, C. 99, S. 9.

66. Any person or persons, corporation or corporations claiming damages from the said City for or by reason of the taking of any said lands and premises may file a claim for the same with the City, and if said damages are not paid and satisfied, or satisfactory arrangements made between the parties within twenty days after filing the said claim as aforesaid, proceedings for the recovery of such damages as may be allowed may be taken under the provisions of The Arbitration Act.

### **Sidewalks**

67. The City Council is hereby authorized to make, construct and lay sidewalks of asphalt, or such other material of a permanent nature as the Council may determine upon from time to time, upon and along the various streets of the City in such manner and style and after such plans and specifications as the said Council may from time to time by resolution or by-law fix and determine. 1890, C. 60, S. 121.

68. The City Council is hereby authorized and empowered to assess such portion of the cost of any such sidewalk as the said Council shall, by by-law or resolution, determine, not to exceed one-half the cost thereof, upon the owners of real estate fronting and abutting thereon, and to fix a time when such assessment shall be payable, and the said Council shall be at liberty to order that any such assessment be payable in any number of yearly payments, not exceeding ten, as they shall deem advisable, and to arrange terms upon which the owners and other persons liable to pay the same, may commute, by cash payment, their proportionate shares of the cost of any such sidewalk. 1911, C. 89, S. 6.

69. Such amounts shall be levied and collected from the owners and tenants for terms of years of lands upon renewable leases, and the principal party or parties (such as executors, administrators, trustees, agents, the husbands of women having separate property, and the guardians of infants) ostensibly exercising control over any such lands, shall for the purposes of this and the preceding sections, be taken and deemed to be respectively the owners or leaseholders thereof, as

the case may be, but any mortgagee in possession, and any person paying any money under this Act, shall respectively be entitled to be reimbursed for the same out of the property, and to sue for and recover the same from the owner of the property. Such fees or sums of money may be collected and the payment thereof enforced in the same manner as any other tax for City purposes, and the provisions of this Act, or any other law that may hereafter be in force in reference to the collection of taxes shall apply herein as well to levy and sale of goods and chattels and imprisonment as to the sale of the real estate; provided, however, that it shall not be necessary to advertise or publish a list thereof as in case of other City taxes; and further provided, that no process shall issue for the recovery thereof until at least ten days after a written or printed demand shall have been delivered to such owner or lease-holder, or person as aforesaid, or left at his dwelling house or last known place of abode, either with his wife or some other member of his family, or the family occupying such last known place of abode, which demand shall contain a statement showing the amount of such frontage fees and for what street and land the same are claimed, and the time when the same is payable, nor until such service shall be made to appear by the affidavit of the person making such service, or other satisfactory testimony; and in the case of non-residents who shall have a known agent in said City, such demand may be made by delivery thereof to such agent, and if such non-residents shall not have any known agent in the City, the Receiver of Taxes shall publish a list in some one or more newspapers published in the City containing the names of such non-residents and the amounts due from them respectively for fifteen days, excepting the names of those who may sooner pay the amounts due from them and their respective portions of the expenses, and at the expiration of such notice, the Receiver of Taxes shall then proceed to the collection of such amounts remaining unpaid, by sale of such real estate as hereinbefore provided. 1890, C. 60, S. 122.

### Sewers

70. The City Council of the City of Moncton shall be, and it is hereby authorized to lay out, make, construct and build any sewers or drains that it may deem necessary, according to any system of sewerage that has been heretofore adopted by the City Council of the City of Moncton, or may hereafter from time to time be adopted by the City Council for that purpose, through and along any of the public streets of the City, and through any private property where it may be necessary to lay any sewers or drains; provided always, that in case such sewer shall be laid or constructed through the lands of any person, the said City shall pay to the owner any damages that he may sustain by reason of such sewer being laid and constructed through his land, and in estimating such damages, any benefit that does or may result to such owner by reason of such sewer passing through his land shall be deducted; and in case the City Council shall not be able to agree with such owner, proceedings for the recovery of such damages as may be allowed may be taken under the provisions of The Arbitration Act. 1890, C. 60, S. 134.

70A. The City Council of the City of Moncton is hereby authorized and empowered to lay out, make, construct and install branch or entrance sewers leading from the main sewers on streets to the boundaries of vacant lands adjacent to such streets and to levy and collect average costs of same and interest thereon at the rate of six percentum per annum from the owners or leaseholders for a renewable term of years of such adjacent lands. Such, average costs and interest shall be collected in the same manner as sewer frontage fees as provided in Section 72 of this Act. This section shall be deemed to have had effect from the first day of January 1947. 1950, C. 99, S. 10.

70B. The City Council may in its discretion postpone the payment of and waive the interest charges on branch or entrance sewer costs for a period not exceeding ten years. 1954, C. 152, S. 8.

70C. All branch sewer costs unpaid on the coming into force of this Act and all branch sewer costs hereafter becoming due and payable shall be a lien against the real estate or interest in real estate in

respect of which such costs are charged for a period of ten years from the coming into force of this Chapter or from the date such branch sewer costs shall thereafter become due and payable as the case may be, bearing interest at the rate of six percentum per annum. 1954, c. 152, s.7; 1960, c. 126

71. The City Council is hereby authorized and empowered to levy and collect from the owners or leaseholders for renewable terms of years, of any lands on streets through or along which any sewer constructed under the general sewerage system of the City does now or hereafter may pass, or has been or may hereafter be made and constructed, such amount hereinafter called frontage fees, not exceeding Eight Dollars per lineal foot of land on such street as the City Council may by ordinance or by-law duly made on that behalf determine, whether such land is occupied or not, and that in estimating such frontage fees in case of corner lots fronting on two or more streets, such frontage shall be estimated on the narrow frontage, and such lots shall be considered and allowed to

run back one hundred feet on the side or other frontage, before frontage fees are levied and collected from such side or other street or streets. 1921, C. 58, S.4.; 1948, C. 123, S. 7; 1976, c.64

71A. (1) The City Council of the City of Moncton is hereby authorized and empowered to charge annually all owners and leaseholders for renewable terms of years of any lands on streets through or along which any sewer has been constructed by the said City fees hereinafter called sewer service fees, and to enact a by-law to regulate and fix such fees and to provide that owners and leaseholders for renewable terms of years of lands may receive credits for sewer frontage fees paid in respect to such lands in such amounts, if any, as the said Council may deem fair and reasonable, and that such owners and leaseholders shall not be required to pay any sewer service fees until such credits are exhausted. 1948, C. 125, S. 1.

(2) If any such by-law is enacted, the said Council shall frontage fees as provided by Section 71. 1948; C. 125, S. 1.

(3) Such sewer service fees shall be levied annually by the Board of Assessors of the said City against the owners and leaseholders liable for such fees in accordance with the provisions of such by-law, and may be collected in the same manner as rates and taxes of the said City, and shall be a lien or charge against the real estate or interest in real estate in respect of which such fees are charged for a period of five years. 1948, C. 125, S. 1.

72. Such frontage fees shall be levied and collected by the Receiver of Taxes from the owners and lease-holders of any free hold and leasehold lands and the principal party or parties (such as executors, administrators, trustees, agents, the husbands of women having separate property, and the guardians of infants), ostensibly exercising control over any such lands shall, for the purposes of this Act be taken and deemed to be respectively the owners of leaseholders thereof, as the case may be; but any mortgagee in possession and any person paying any money under this Act, shall respectively be entitled to be reimbursed of the same out of the property, and to sue for and recover the same from the owner of the property; such frontage fees and interest thereon, may be collected and the payment thereof enforced in the same manner as any other tax for City purposes, and the provision of any law in force in reference to the collection of taxes, shall apply herein as well to levy and sale of goods and chattels and imprisonment as to the sale of the said real estate. 1949, C. 119,

73. (1) The City Council is hereby authorized to fix and determine rates of frontage fees to be paid on the several streets of the City, not exceeding the said sum of Eight Dollars per lineal foot as aforesaid, the same to be due and payable not later than January 1st of the year next following the time of installation of the sewer, and where lots are not occupied by buildings, it shall be lawful for the Council by resolution or by-law, to apportion the payment thereof over a number of years, not exceeding ten, and to determine the amount thereof that shall be paid each year, and such amount shall be payable and be collected in the way and manner hereinbefore provided, and when any such vacant lot is built upon during said period, the whole amount or balance of such fees then unpaid shall then and thereupon become due and payable, and may be collected as hereinbefore provided. 1954, C. 152, S. 8; 1976, c. 64

(2) All sewer frontage fees unpaid on the coming into force of this Act and all sewer frontage fees hereafter becoming due and payable shall be a lien against the real estate or interest in real estate in respect of which such fees are charged for a period of ten years from the coming into force of this Act, or from the date such sewer frontage fees shall thereafter become due and payable as the case may be and shall, three months after the same became due and payable, bear interest at the rate of one half of one per cent per calendar month or fraction thereof. Provided that City Council may in its discretion waive the payment of such interest. 1954, C. 152, S. 9.

74. The provisions of this Act shall apply to all sewers heretofore constructed under the sewerage system of the Town of Moncton, and said frontage fees shall be payable in respect of all such sewers, and may be collected as hereinbefore set out, in lieu of the frontage and entrance fees heretofore collected; provided, however, that all amounts heretofore paid by any person or persons for such frontage and entrance fees, or either, shall be credited and allowed on the amount that may be payable under the provisions of this Act, and the balance may be collected in the way and manner hereinbefore provided, and if the sum heretofore paid by any person or persons for such frontage and entrance fees in respect of any such lands shall amount to more than may be payable for frontage and entrance fees under the provisions of this Act, the balance shall be refunded by the City Council to the party entitled to receive the same. 1890, C. 60, S. 138.

75. The City Council shall have full power and authority, and it is hereby authorized and empowered by resolution or by-law to regulate:

(a) The way and manner of entering the sewers, the size and mode of construction of branch drains leading from private property into any main drain or sewer, and to prevent the opening or entering of any drain or sewer until the entrance fee and frontage fees are paid; the making of any excavation, hole or opening whatsoever in or upon any street, sidewalk, road or highway within said City for the purpose of making an entrance to any such sewer without the permission of the City Engineer of the City, and for the lighting and guarding by fencing or otherwise of any such opening, hole or excavation, and to provide for the proper trapping and protecting of such entrances from sewer gas, and for the construction thereof under the supervision and direction of the City Engineer or other officer that may be appointed for that purpose, and to appoint such officer and define his duties, or to assign such duties to the City Engineer. 1890, C. 60, S. 139 (1).

(b) The draining into any such drain or sewer of any cesspools or privies, to prevent the choking or fouling of any such sewer or drain by improper substances being thrown into any such branch drain, or any cesspool or privy entering the same, and with the view to compel the placing of gratings or strainers or other proper devices in or over such branch drains, and generally to regulate the use of such sewers as to them may seem necessary; with a view to enforcing any such regulations the City Council may at any time order the City Engineer or other Officer or person to inspect any premises designated by them in the City, and to report to them any infringement of any such regulation, and such City Engineer, Officer or other person is hereby authorized and empowered to enter upon any such premises at any reasonable time for such purposes. 1890, C. 60, S. 139 (2).

76. In the construction and for the purposes of this Act (if not inconsistent with the context or subject matter), the following terms shall have the respective meanings hereinafter assigned to them, that is to say, "drain" or "sewer" may include any continuation or extension of a drain or sewer; "owners" shall mean all persons having any free hold estate or interest in any lands, tenements or premises, other than mortgagee thereof not in possession; "leaseholders" shall mean any tenants for terms of years of any lands upon renewable leases, other than mortgagees of any such term not in possession thereof. When mortgage is in possession of the property in mortgage, he shall be taken to be the owner or leaseholder thereof, as the case may be. 1890, C. 60, S. 140.

## Markets

77. The City Council is hereby authorized to continue the Market heretofore established in the City of Moncton, and to regulate the same, and to establish and regulate such other markets in said City as may from time to time be deemed necessary, and to purchase land and erect such buildings as may be necessary for that purpose, and to establish and regulate market days and fairs in said City. The said Council may lease or farm out said Markets to a fit and proper person or

persons for such annual amount or fee as may be agreed upon from time to time and in such way and manner as the said Council may determine or said Council may appoint such Clerk or Clerks of the Markets and such other officers as may be necessary for the management of such Markets, at such a salary as may be agreed upon, and by resolution or by-law define the duties of such clerks or officers and also by resolution or by-law fix and establish fees or tolls to be paid by all persons using said Markets or selling or exposing for sale any goods or articles therein, and generally to establish by-laws, rules and regulations for the proper governing and regulating all matters and things in connection with said Markets, and the use thereof, and to alter, repeal, amend or add to the same from time to time as may be necessary, and to compel persons vending meat, fish, fowl, vegetables, hay, oats, straw, feed and other provisions, produce, handicrafts and other articles commonly and usually sold or offered for sale in a public market, to sell the same in said Markets, and to prohibit the sale of such articles elsewhere; and also to license butchers and hucksters, and all vendors of meat, fish, vegetables, grain, hay, straw and fodder, and to fix the fees to be paid by them to the City for such license, and to regulate the way and manner of their doing business. 1953, C. 69, S. 7.

78. It shall and may be lawful for the Mayor of the City of Moncton, for the time being, and he is hereby authorized to license annually such and so many persons, being residents of the said City, or duly qualified to carry on business therein, as he may in his discretion think fit, to sell fresh meat, poultry, wild fowl, vegetables, and fresh fish within the said City, outside of and beyond the bounds of the public market place, designating in such license the place or shop to be occupied by the persons so licensed. 1897, C. 43, S.1.

79. Every such license shall be held at the pleasure of the Mayor, and shall, unless sooner revoked, expire on the thirtieth day of November next after the granting of such license, and shall not be assignable. Every person receiving any such license shall pay therefor, for the use of the City of Moncton, a sum to be from time to time fixed and determined by resolution of the City Council, not less than the sum of Five Dollars. This section shall be deemed to have had effect from the 1st day of October, 1950. 1951,C.89,S. 11 (1),(2).

80. The shop or place for which such license may be granted shall be fitted up to the satisfaction of the Mayor, shall be open at all times to the inspection of the Mayor, or of such persons as he may from time to time appoint, and all regulations made by the City Council shall be obeyed, on pain of forfeiture of the license. 1897, C. 43, S. 3.

81. No person other than a person duly licensed as provided by this Act under license existing and in force, shall sell or keep, or offer or expose for sale in any shop or place within the said City of Moncton, outside of and beyond the bounds of the public market place, any fresh meat, poultry, wild fowl, vegetables or fresh fish, under a penalty not exceeding Ten Dollars, for every such act; and no person so licensed shall so sell or offer or expose for sale in any shop or place within the said City as aforesaid, except in the shop or place for which any such license may be granted, under the like penalty of a sum not exceeding Ten Dollars for every such act. 1897, C. 43, S. 4.

82. All penalties under the last preceding section shall be recovered with costs, by summary proceedings before the Police Magistrate of the City of Moncton or other Magistrate sitting at the Police Office in the said City, in the name of the City Clerk of the City of Moncton for the time being, and in accordance with the provisions of Chapter 125 of The Revised Statutes, 1927, relating to Summary Convictions; the penalty when recovered to be paid to the City Treasurer of said City for the use of the City, and in every case, on the adjudication of a pecuniary penalty under this Act and non-payment thereof, it shall be lawful for the said Police Magistrate or Sitting Magistrate to commit the person for a term in the discretion of the Magistrate, not exceeding fifteen days, the imprisonment to cease on payment of the penalty and costs. 1897, C. 43, S. 5.

83. The Clerks or Deputy Clerks of the Market for the preservation of peace and good order in the said Markets, during the time they shall hold said office, shall be and are hereby severally vested (in addition to any power given by this Act, or any bylaw or ordinance of the City Council), with all the powers and authorities vested in any constable of the City of Moncton. 1890, C. 60, S. 85.

### **Loans in Certain Cases**

84. The City Council of the City of Moncton is hereby authorized and empowered from time to time to effect a temporary loan or loans, and to borrow from any chartered bank doing business in this Province, such sum or sums of money as may be necessary to liquidate and pay off any and all amounts ordered to be paid at any meeting of the said City Council. Such loans at any time effected and interest thereon to be annually paid off out of the moneys assessed and collected for City purposes; provided that this Act shall not authorize the expenditure of any greater sum in any year than the said City Council is now by law authorized to expend, and that the amount of any such temporary loans remaining unpaid at any time shall not exceed in all the sum Three Million Five Hundred Dollars. 1957, C. 123D S. 10; 1963, c. 77.

85. The said City Council may make such orders as may be necessary to carry out the provisions of this Act and upon any loan being effected, an acknowledgement of the same and of the terms thereof, under the seal of the said City and the hands of the Mayor and City Clerk, shall be delivered as evidence of such loan. 1890, C. 60, S. 56.

86. Where an issue of debentures has been authorized it shall and may be lawful for the City Council of the City of Moncton, and the said Council is hereby authorized and empowered to make temporary loans from time to time instead of issuing such debentures, and to renew the same until such time as it shall deem advisable to make such issue of debentures, and to give notes or treasury bills as security for such loans. And such loans shall not effect or be governed by the general power of the City to make temporary loans as provided for in section 84 of this Act, or any Act in amendment thereof. 1916, C. 82, S. 21.

### **Appointment of Constables**

87. The Mayor of the City of Moncton may, whenever he deems it advisable, call upon and appoint so many persons as he shall think fit, to act as special constables for the said City, and such constables shall have the same powers and immunities as other constables, except that such constables shall not serve or execute any civil process, and the Mayor appointing such special constables may discharge them when the occasion for their services has passed. The said Mayor upon appointing such special constables, shall forthwith administer the following oath: "I, A. B., do swear that I will faithfully, without favour, affection or ill will, discharge the duty of special constable, and that I will cause the peace to be kept and preserved to the best of my power while I continue in office—So help me God." 1890, C. 60, S. 57.

88. Any person called upon to act as special constable, as provided in the last preceding section, refusing or neglecting to serve or take the prescribed oath, shall be liable to a penalty of not more than Fifty Dollars and no person shall be deemed incapable to serve or be sworn in as a special constable by reason of his not being a ratepayer in the City or his not having paid his rates. 1890, C. 60, S. 58.

89. Every constable or special constable who shall be guilty of any neglect or violation of his duty in his office, or refuse to perform the same, shall be liable to a penalty of not more than Fifty Dollars. 1890, C. 60, S. 59.

90. Every constable, not being a special constable, shall remain in office for one year unless dismissed as hereinbefore in this Act provided, and upon his appointment shall with two sufficient sureties, to be approved of by the Mayor of the City of Moncton, execute the following Bond:—

Know all men by these presents, that we of and the Province of New Brunswick, and of and are bound unto the Mayor of the City of Moncton in the sum of Five Hundred Dollars to be paid to him, for which payment to be made we bind ourselves jointly and severally, our heirs, executors, and administrators by these presents.

Sealed with our seals. Dated the day of

Whereas the above bounden has been duly appointed a constable by the City Council of the City of Moncton for a year ending on the day of ensuing the date of this obligation:

Now the condition of this obligation is such, that if the said constable as aforesaid, his executors or administrators shall pay all moneys and damages that may be recovered against him for any breach of the duties of his said office by him, during the said year, then this Bond to be void, or else to remain in full force. 1890, C. 60, S. 60.

91. Such Bond on approval by the Mayor shall be filed with the City Clerk, and the said constable shall then take the oath of office, and should such Bond not be furnished within one week from the appointment another person may be appointed to fill the office, executing similar Bond with the like sureties. 1890, C.60,S.61.

92. Any person who shall recover a judgement against a constable for a breach of the duties of his office, and upon a return of nulla bona to any execution issued in the said City, or in the County in which he resides, may forthwith apply to the Judge of the County Court of Westmorland, or such other County Court Judge as the Judge of the County Court of Westmorland may designate, who shall, upon a satisfactory affidavit grant an order ex parte that such person may bring an action upon the said bond in his own name in the said County Court or in any other Court of competent jurisdiction. A certified copy of such Bond under the hand of the City Clerk shall be good evidence of the original bond without its production; but no action shall be brought upon the bond unless within one year from signing of such judgement. 1890, C.60,S. 62.

93. A recovery may be had on the bond to the amount of such judgement with costs, which recovery with costs shall be satisfaction of the bond for so much. When a subsequent order shall be obtained in any other cause for putting the bond in suit, the like recovery may be had with costs, but not in the whole to exceed the penalty of said bond, and so on as often as necessary. 1890, C. 60, S. 62.

### Auctioneers

94. No person shall exercise or carry on the calling, business or occupation of any Auctioneer, or sell anything at Public Auction within the said City, until he shall have first taken out a license therefor and paid the license fee and entered into bonds as hereinafter provided; but nothing herein contained shall extend to Sheriffs, or other officers of Justice, selling under process of law~ or the decree or direction of any Court. 1890, C. 60, S. 111.

95. The City Council may, from time to time, by by-law or regulation, fix and establish what sum shall be annually paid for such license, and also what percentage of the gross proceeds of all sales of personal property, goods and chattels, sold by such Auctioneer within the said City, shall be paid by such Auctioneer to the City Treasurer, and also to fix and determine upon what goods,

property and effects such percentage shall be paid, and to establish such different rates of percentage to be paid upon the different kinds or classes of goods, property and effects so sold, as they shall see fit, and to regulate the way and manner of carrying on such business under such licenses. 1890, C. 60, S. 112.

96. All Auctioneers, before doing business as such in the said City, and before receiving license, shall enter into a bond to "The City of Moncton" with two sufficient sureties, freeholders of the said City, to the satisfaction of the Mayor, in the penal sum of One Thousand Dollars, conditioned for the obedience of the Auctioneer to this Act and any by-law passed hereunder, and also for the accounting and prompt payment of any fee or percentage due the said City, which bond may be sued and collected in any Court of competent jurisdiction in this Province. 1890, C. 60, S. 113.

97. Every Auctioneer exercising his calling within the City of Moncton shall within thirty days from the first day of January, April, July and October in each year render to the City Clerk an account in writing of all action sales made by him within the said City, showing therein the different kinds and classes of goods so sold and the name and residence of the respective owners thereof, and such other matters as the City Council may by by-law require, on oath, which oath the Mayor of the City or any other person duly authorized to administer oaths residing in the City may administer, and pay the percentage thereon established by any by-law made as aforesaid to the City Treasurer, and for every breach of his duty in this respect shall be liable to a penalty not exceeding Fifty Dollars to be recovered by action on his said bond. 1950, C. 99, S. 12.

### Police Court

98. The Lieutenant-Governor in Council is hereby authorized to appoint a Police Magistrate for the City of Moncton, and the said Police Magistrate and his successors in office shall be paid an annual salary of not less than Two Thousand One Hundred Dollars and the same shall be a fixed charge on the revenues of the City, and be levied, assessed and collected from year to year, in the same manner as any general tax for City purposes, and such Police Magistrate shall be a Court, having and exercising all criminal and quasi-criminal jurisdiction, conferred upon a stipendiary or Police Magistrate, by law. The Police Magistrate of the City of Moncton shall be a Barrister of the Supreme Court of New Brunswick of at least five years standing. 1947, C. 118, S. 4.

99. The said Police Magistrate shall have jurisdiction in and for the County of Westmorland over all complaints, informations, prosecutions or proceedings arising within the City of Moncton or elsewhere within the County of Westmorland, for the violation of any law or Municipal By-law or regulation, in respect to which proceedings may be had or conducted under the Dominion Summary Convictions Act, or under Chapter 125 of the Revised Statutes, 1927, and such Police Magistrate shall have all the powers of a Justice of the Peace in such matter or proceeding, and shall also have alone all the powers conferred upon two Justices of the Peace by any law, by-law or regulation in force in the County of Westmorland. 1914, C. 93, S. 2.

100. The said Police Magistrate, before executing the duties and powers of his office, shall take and subscribe the following, oath:

"I, A. B., do swear that I will truly, faithfully, honestly and impartially, and according to my skill and knowledge, exercise the several duties and powers of Police Magistrate for the City of Moncton, without fear, favour or malice. So help me God."

Such oath shall be made and taken before a Judge of the Supreme Court or Judge of the Westmorland Court and filed in the Office of the Clerk of the Peace. Every Police Magistrate so appointed shall be ex officio a Justice of the Peace for the County of Westmorland. 1914, C. 93, S. 3.

101. The Police Magistrate appointed or holding office under the provisions of this Act, is hereby

created, declared and constituted a Court, with all the powers and jurisdiction which any Act of the Parliament of Canada has conferred or which any Act of the Parliament of Canada purports to confer, upon any stipendiary or police magistrate within the Province of New Brunswick 1914, C. 93, S.4.

102. Any affidavit to be used in the said Court, or in proceedings on review therefrom, may be sworn before the Police Magistrate, a Sitting Police Magistrate, or before any Commissioner for taking affidavits to be read in the Supreme Court. 1914, C. 93, S. 5.

103. The Lieutenant-Governor in Council may appoint from time to time, two barristers of the Supreme Court, resident and practising in the City of Moncton to be Sitting Police Magistrates for the City of Moncton, either one of whom may in case of the death or during the temporary absence or illness of said Police Magistrate, or in cases where the said Police Magistrate is in any way disqualified by being a witness, or from relationship or otherwise, act as and execute the duties of Police Magistrate; and while so acting, shall have, exercise and enjoy all the powers and privileges of the said Police Magistrate, and whenever in this Act the term "Police Magistrate" is used, the same shall be held to apply to any Sitting Police Magistrate who may be acting as Police Magistrate as aforesaid, and for every day such Sitting Police Magistrate shall so execute the duties of Police Magistrate or execute the duties of the Commissioner of the City Court of Moncton, he shall receive the sum of Twelve Dollars, to be paid to him by the City Treasurer in the same manner as any other amount for City purposes. 1928, C. 72, S. 6.

104. The Police Magistrate and the Commissioner of the City Court of Moncton shall attend at the Police office in the said City between the following hours, namely: From 10 a. m. until 12.30 p. m. and from 2 p. m. until 5 p. m. on all days except Sunday, Christmas, Good Friday, or any public holiday and at all such other times as necessary may require, provided however that the said Police Magistrate or Commissioner shall only be required on Saturday of each week to attend between the hour of 10 a. m. and 1 p. m. but nothing herein contained shall limit the power of the said Police Magistrate or Commissioner to adjourn any matter before him during the hours above named, or to transact business in his official capacity at any other time. 1925, C.57,S.7.

105. In case the offices of Police Magistrate and Commissioner of the City (Court of Moncton are held by one and the same person, he shall not during the hours which he is required to be in attendance at the Police or City Court, engage in any other business, profession or occupation, nor shall he take any retainer, or act in any cause, criminal or civil, nor shall he at any other time practise his profession as a barrister, solicitor or conveyancer. 1925, C. 57, S. 8.

106. The Police Magistrate for the City of Moncton shall not be required to make the returns mentioned in Section 45 of Chapter 125 of The Revised Statutes, 1927. 1922, C. 93, S.6.

107. The Magistrate or the Deputy Magistrate for the County of Westmorland shall upon application to him made for that purpose by the City Council hold an investigation or inquiry into any matter of complaint respecting the official conduct of any official appointed by the City or any person receiving or having expenditure of public moneys and into any matter connected with civic affairs and for that purpose the said Magistrate is hereby authorized and required to summon and bring before him all persons whom he may deem capable of giving information or evidence touching or concerning any of such matters and to examine such persons under oath, which oath he shall be authorized to administer and the said Magistrate shall reduce the examination to writing and file the same together with his findings and recommendations thereon, if any, in the office of the City Clerk of the City of Moncton. 1950, C. 99, S. 13.

108. If any person summoned to appear before the said Police Magistrate by virtue of Section 107 of this Act and having fees agreeable to Chapter 125 of The Revised Statutes, 1927, respecting fees tendered to him shall neglect or refuse to appear at the time and place specified in the summons or if any person appearing in obedience to any such summons shall refuse to be examined or to answer any lawful questions that may be put to him in the course of his examination, it shall be lawful for the said Police Magistrate to enforce the attendance of such person or to compel such person to answer as the case may require by the same means as are used by Justices of the Peace for such purposes in matters relating to summary convictions before Justices of the Peace. 1916, C. 82, S. 18.

109. All sums of money received by the said Police Magistrate or by a Sitting Police Magistrate for fees, fines, penalties, forfeitures or costs incurred or paid under the provisions of any law or statute in force in this Province, or of any by-law or ordinance of the City Council of the City of Moncton, or for any costs whatever, by him receivable in any matter whatever, shall, unless otherwise provided by Statute, be paid over by the said Police Magistrate or Sitting Police Magistrate on Monday of each week, together with an account under oath, to be sworn before any commissioner for taking affidavits to be read in the Supreme Court, which oath any Commissioner is hereby authorized to administer, of all such money to the Treasurer of the City of Moncton, to be kept and applied for the purposes of the said City, and the said Police Magistrate shall keep an account of all such money so received by him which account shall be open to the Inspection of any member of the City Council, Treasurer or auditor, at any time during business hours, without fee. 1914 C. 93, S. 8.

110. The persons now holding the offices of Police Magistrate for the City of Moncton and Sitting Police Magistrates for the said City shall continue to be Police Magistrate and Sitting Police Magistrates respectively for the said City under the provisions of this Act, without being reappointed thereto and without again being required to take the oath of office. 1914, C. 93, S. 9.

### **Lock-Up House**

111. The City Council shall have power to erect and constitute a lock-up house in and for the City of Moncton, and the lock-up house or place now used as a lock-up house in the said City of Moncton, or any place or building that may hereafter be employed, constituted or used as a lock-up house in said City, is hereby declared to be and may hereafter be used as a common gaol or place of confinement of any person or persons who may hereafter be convicted by the Police Magistrate for the City of Moncton, or by any Sitting Police Magistrate for said City for any offence under and by virtue of any law or laws now in force or that may hereafter be in force in this Province, or any law or by-law in force in the said City of Moncton, punishable under summary conviction for any term of imprisonment not exceeding twenty days, and for the imprisonment or confinement of any person or persons convicted or committed for any contempt of court by any such Magistrate for a term not exceeding seventy two hours. And it shall be lawful for such Police Magistrate or Sitting Police Magistrate in any of the matters aforesaid, to commit such offenders to said lock-up house instead of the common gaol at Dorchester, if he shall deem it advisable, for any term not exceeding twenty days. 1922, C. 93, S. 5.

112. The City Council of the City of Moncton is hereby authorized to appoint a fit and proper person as Keeper of the lock-up house in said City, and to determine his duties and fix his salary, and to make and ordain such ordinances or by-laws as it may deem necessary for regulating and governing such lock-up house and the Keeper thereof. 1890, C. 60, S. 83.

113. The Police Force in the City of Moncton shall consist of a Chief of Police and as many police constables and other officers and assistants as the City Council may from time to time, deem necessary. 1907, C. 97, S. 4.

114. The members of the Police Force shall be appointed by and hold their offices at the pleasure of the City Council and shall take and subscribe the following oath before the Mayor or the City Clerk of the City of Moncton:

"I, (A. B). do swear that I will well and truly serve our Sovereign Lord, the King, in the office of police constable for the City of Moncton, without favour or affection, malice or ill-will; and that I will to the best of my power cause the peace to be kept and preserved, and will prevent all offenders against the persons and property of His Majesty's subjects, and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully, according to law." 1950, C. 99, S. 14.

### **Police Force**

115. The members of the Police force so appointed shall, in the City of Moncton, and also generally in the County of Westmorland, have all such powers, authority, privileges and advantages which any constable or peace officer now has or hereafter may have, and shall have and be liable to all such duties and responsibilities as any constable or peace officer now has or hereafter may have, and shall obey all such lawful directions as they or any of them may, from time to time, receive from the City Council with respect to the discharge of their duties. 1907, C. 97, S. 6.

116. It shall and may be lawful for any member of the Police Force of the City of Moncton to take into custody without warrant, all loose, idle and disorderly persons, and all keepers, inmates and frequenters of any house of ill fame, and all vagrants, and all persons whom he shall find between the hours of nine o'clock, p. m. and five o'clock, a. m., lying or lurking in any highway, yard within the County of Westmorland, or other place, and not giving satisfactory account of themselves; and also to take into custody without warrant as aforesaid, any person who in the City of Moncton aforesaid shall be charged by any other person with committing any aggravated assault, in every case where such constable shall have good reason to believe that such assault has been committed, although not within view of such constable, and that by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender, in order that such person may be secured until he can be brought before the Police Magistrate for said City, to be dealt with according to law. 1950, C. 99, S. 15.

117. Repealed. 1950, C. 99, S. 16.

118. It shall be lawful for, and it shall be the duty of said Police Force, or any member thereof, to enter into any house or premises in which they or he may hear any fighting or quarrelling going on, and endeavour to allay or repress the same, and failing so to do, to apprehend and take into custody the party or parties so fighting or quarrelling, and to carry him, her or them before the Police Magistrate, to be dealt with according to law. 1893, C. 47, S. 7.

119. The lock-up house in the City of Moncton shall be to all intents and purposes, a lawful place of committal and confinement of persons charged with any offence against any law in force in said City of Moncton during the time of proceeding and final judgement, before the Police Magistrate, or before any Sitting Magistrate acting within said City; and it shall and may be lawful for the High Sheriff of the County of Westmorland, or any other officer having legal custody of any person or persons who shall or may be arrested within the City of Moncton for any criminal offence or breach of the peace, or for the violation of any law, or who shall be in the charge of the said sheriff or officer for any offence whatever, in all causes where the sheriff or other officer could legally lodge the said person or persons in the common gaol of the County of Westmorland, to commit such person or persons to the said lock-up house until such person or persons can be removed to the said common gaol, or for such further time as such person or persons may be required to be committed to such lock-up house during the time of any trial or examination for which he may be held,

provided that the keeper of the lock-up house, or any officer of the City of Moncton, shall not be in any way responsible for the safe custody of any person or persons so committed to the said lock-up house by the said Sheriff or other officer, but such responsibility shall rest only on such Sheriff or other officer, except in the case of the wilful default, neglect, or other malfeasance of the keeper of such lock-up house; provided, however, that nothing herein contained shall in any way interfere with or prevent the imprisonments now authorized by Section 117 of this Act. 1950, C. 99,17.

120. Notwithstanding the provisions of Section 235 of this Act the City Council shall from time to time, make and ordain such regulations as it may deem expedient for the government and discipline of the members of the Police force, and for preventing neglect or abuse, and for rendering the force efficient in the discharge of all its duties. 1947, C. 118, S. 5.

121. The City Council of the City of Moncton shall appropriate and pay such remuneration for and to the respective members of the police force as it may determine, and shall provide and pay for all such offices, watch houses, arms, accoutrements, clothing, and other necessaries, as it may, from time to time deem requisite and required for the payment, accommodation and use of the force. 1907, C. 97, S. 8.

122. No sum or sums of money shall be paid to the police constable of the City of Moncton, or any of them for any purpose in connection with their duties as members of the Police Force of the said City, or in the administration of justice, except on the request or with the consent of the City Council, and no officer or member of the police force of the City of Moncton shall engage in any other business or undertaking whatsoever or absent himself from the City of Moncton or his duties except for the apprehension of criminals, without the consent of the said City Council. 1916, C. 82, S.28.

123. No Policeman belonging to the said Police Force shall be at liberty to resign his office, or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the Chairman of the Police Committee in said City, or unless he shall give to the City Council of the City of Moncton one calendar month's notice in writing of such his intention; and every Policeman who shall so resign or withdraw himself without such leave or notice shall be liable to forfeit all arrears of pay then due to him. 1893, C. 47, S. 5.

124. The City Council may, at any time, dismiss or suspend from duty without pay any member or members of the said police force, at its discretion, and when any member of the said police force shall be dismissed by the City Council, all powers and privileges vested in him under and by virtue of this Act, shall immediately cease and determine. 1907, C. 97, S. 9.

125. Any member of the said police force who shall be guilty of any neglect or violation of his duty in his office, or refuses to perform the same shall be liable to a penalty of not more than Fifty Dollars, and in default of payment, to imprisonment for a term not exceeding thirty days.

126. Whoever shall be convicted of any of the offenses mentioned in Section 117 of this Act, shall for each offence pay a fine of not less than two nor more than Forty Dollars, and in default of payment thereof, shall be imprisoned in the lock-up house in the City of Moncton for a period of not less than twelve hours nor more than twenty days, at the discretion of the convicting Magistrate. 1908, C. 70, S. 6.

### **Juvenile Court**

127. The Juvenile Court Judge in and for the City of Moncton, and his successors in office shall be paid an annual salary not exceeding Fifteen Hundred Dollars, and the same shall be a fixed charge on the revenues of the said City and shall be levied, assessed and collected from year to year in the same manner as any general taxes for City purposes. 1949, C. 120, S. 1.

### Civil Court

128. There shall be a Court in the City of Moncton for the trial of civil causes, called "The City Court of Moncton". 1890, C. 60, S. 67.

129. The said Court shall be held before the Commissioner of the City Court of Moncton, to be appointed as hereinafter mentioned and hereinafter called "The Commissioner" at the Police Court Room in the said City, or such other place as may be from time to time by the Council determined upon, on Thursday in each and every week; provided that when Christmas Day, or New Years Day, or any other legal holiday, shall fall upon Thursday, the said Court shall be held on Friday in such week; provided also, that the sitting of the said Court may be adjourned from day to day, if it be deemed expedient or necessary for the dispatch of any unfinished business. 1890, C. 60, S. 68.

130. During the temporary absence or illness of the Commissioner or in cases where he is in any way disqualified, any one of the said sitting Police Magistrates designated by the Mayor may act as and execute the duties of the Commissioner, and whenever in this Act the term Commissioner is used the same shall be held to apply to the sitting Police Magistrate who may be so acting as Commissioner. 1890, C. 60, S. 69.

131. The Commissioner of the City Court of Moncton shall have power to issue execution on all judgements hereto before or hereafter signed in the City Court of Moncton, whether by a former Commissioner or by a sitting Magistrate, or other Magistrate or Commissioner who may have acted in the place of the Commissioner, and during the lives of the parties to any such judgement, and execution may be issued within six years from the signing of such judgement. 1900, C. 31, S. 2.

132. No action shall be maintained against any Commissioner of said Court having issued execution under the provisions of Section 131 of this Act, on the ground that the judgement upon which said execution issued was invalid or defective for any want of jurisdiction in the said Court, provided such judgement and the record of the proceedings in said Court in the cause wherein said judgement was signed, are regular in form, and do not show upon their face anything which would indicate a want of jurisdiction in the said Court. 1900, C. 31, S. 3.

133. (1) The Commissioner sitting in the said Court shall have jurisdiction in the County of Westmorland over all actions of debt upon specialty or otherwise where the sum demanded does not exceed One Hundred Dollars; and in actions of tort or for breach of contract, where the damages claimed do not exceed Sixty Dollars; and in actions against bail or on limit bonds given or taken in the said Court whatever may be the penalty or amount sought to be recovered, and over all actions in which the City of Moncton may be a party or interested, where the sum demanded or damages claimed would in other cases be within the jurisdiction of the said Court; provided that the said Court shall not have cognizance of any action in which the title to land is brought into question. 1948, C. 123, S. 8

(2) The Commissioner of the City Court of Moncton shall not have jurisdiction unless the plaintiff or one of the plaintiffs or the defendant or one of the defendants resides within the City or Parish of Moncton or unless the plaintiff or one of the plaintiffs resides outside the County of Westmorland or has no place of business in the said County of Westmorland, and the defendant resides within the County of Westmorland. 1948, C. 123, S. 8.

134. The Commissioner and every Sitting Police Magistrate, before exercising the powers herein given him as Commissioner of the said Court, shall take and subscribe the following oath in addition to any oath provided by the law to be taken:—

"I, A. B., do swear that I will faithfully, impartially and honestly, according to the best of my skill and knowledge, execute all the powers and duties of Commissioner of the City Court of Moncton."

and every such oath shall be taken before some one of the Judges of the Supreme Court, or County Court for this Province, and filed with the City Clerk of the City of Moncton. 1890, C. 60, S. 71.

135. The Commissioner of the City Court of Moncton may sign any summons in blank and deliver the same so signed to any Solicitor of the Supreme Court, and such solicitor may issue any such summons, and the same shall be served or executed and proceedings thereon be had in all respects as if such summons had been issued by the Commissioner of the City Court. Any solicitor issuing any such summons shall endorse therein as follows:

"This summons was issued by A. B." Solicitor, Solicitor's Address.

In any case where a summons is so issued by a solicitor, the Commissioner of the said Court, in addition to other costs taxable in the cause, shall tax and allow to the solicitor who issued the same the sum of fifty cents for every summons so issued by him. 1922, C. 93, S. 2.

136. (1) Every plaintiff or defendant in any suit in the City Court of Moncton may appear and conduct his suit in person, by his agent, or by a solicitor of the Supreme Court, whose authority may be written or oral, but on the trial such solicitor shall not be a competent witness for the party for whom he appears; and provided that no person shall take any part as counsel or solicitor, or in any contested cause or action in the said Court unless he is a solicitor of the Supreme Court, in good standing. 1922, C. 93, S. 4.

(2) The word "Trial" in this section shall mean a suit in which the defendant, or some one or all of the defendants, appears and defends, and does not mean or include a judgement by default. 1940, C. 61, S. 3.

137. The plaintiff shall have the right to reduce a claim originally over One Hundred Dollars by credit of payment or abandonment, so as to bring such claim within the jurisdiction of the Court, and the defendant shall have same rights of crediting payment and abandonment in setting off adverse claims. 1892, C. 38, S. 1.

138. If on the trial of any action brought in the City Court of Moncton it shall appear that the Court has no jurisdiction in the case, judgement shall be rendered in case of nonsuit, and the defendant shall have execution for costs accordingly. 1892, C. 38, S. 2.

139. In any civil action in the City Court of Moncton brought to recover a liquidated demand, whether due upon a specialty or otherwise, where the defendant fails, or all the defendants, if more than one, fail to appear in answer to the process, provided such process is served at least two clear days before the return day, judgement may be entered for the plaintiff for any sum not exceeding the sum claimed in the particulars of demand, without further evidence, provided that when the action is on a bill of exchange, promissory note or other negotiable instrument, such bill, note or other instrument shall be filed with the Commissioner before or at the time of judgement is entered. R. S. N. B., C. 121, S. 19.

140. All persons joint stock companies, incorporations and incorporated banks, with their head office or chief place of business outside the City of Moncton and carrying on business in said City by a branch or agency, may sue and be sued in the City Court of Moncton; and every summons issued against such person joint stock company, corporation or incorporated bank, carrying on business in the City of Moncton by or through a branch or agency, shall be served upon the cashier,

manager, secretary-treasurer or agent of any such branch or agency within the City of Moncton; and every person who, within the City of Moncton manages, transacts and carries on the business of any persons joint stock company, corporation or incorporated bank, whose chief place of business is without the limits of said City, shall, for the purpose of being served with a summons issued out of said Court against such persons joint stock company, corporation or incorporated bank, be deemed the agent thereof. 1949, C. 119, S. 11.

141. The provisions of The Judicature Act respecting the assignment of debts and choses in action shall, as far as possible, be construed to apply actions in The City Court of Moncton. 1938, C. 89, S. 3.

142. When any debt or chose in action arising out of contract has been assigned pursuant to the provisions of The Judicature Act, the assignee may bring an action thereon in The City Court of Moncton (provided the amount claimed is within the jurisdiction of such Court) or in his own name, as the party might to whom the debt was originally owing, or in whose favour the right of action originally arose, or he may proceed in respect of the same as though this section had not been passed. 1938, C. 89, S. 1.

143. The plaintiff suing as such assignee shall in the summons and in the particulars of his said claim, set forth briefly the chain of assignments showing how he claims title; but in all other respects the proceedings may be the same as if the action were brought in the name of the original creditor, or of the person to whom the cause of action accrued. 1938, C. 89, S. 2.

144. Goods and chattels taken under execution may be sold at public auction after being publicly advertised five days prior to the sale, and after satisfying the execution the surplus shall be paid to the defendant. 1892 C. 38, S. 5.

145. In all cases where both parties to an action of debt are residents of the City of Moncton, the said action shall be brought and tried before a Court of competent jurisdiction in the said City, and not elsewhere. 1913, C. 77, S. 9.

146. Any affidavit to be used in the said City Court, may be sworn before the Commissioner of said Court or before any Sitting Police Magistrate, who may be acting as such Commissioner under the provisions of this Act, or before any Commissioner for taking affidavits to be read in the Supreme Court. 1890, C. 60, S. 73.

147. All proceedings in the City Court of Moncton shall be had in all respects except as herein specially provided under the provisions of the law relating to proceedings in Justices' Civil Courts and the Acts to Regulate Arrests in Civil Actions, being Chapter 43 of 23 George V, (1933), as amended by 4 George VI, (1940), C. 32.

148. All summonses, capias, executions and other processes issued out of the City Court of Moncton, including any venire, shall be entitled in the said Court, shall be signed by the Commissioner of the City Court of Moncton, shall be directed to any constable of the City of Moncton, and shall be served and executed only by a constable of the City of Moncton, but notwithstanding anything contained in this or any other Act, every Provincial Constable duly appointed by the Governor-in-Council, shall while he holds office, be ex-officio a constable of the City of Moncton, and deemed to be, and be a Constable of the City of Moncton, and as such shall have and he is hereby given authority to act within the said City and to serve and execute any and all such processes issued out of the City Court of Moncton within the said City, or elsewhere within the County of Westmorland, whether the City Council of the City of Moncton does or does not appoint a Constable or Constables for the City of Moncton. 1937, C. 76, S. 2.

149. Every Constable or other Peace Officer into whose hands any summons or capias issued out of the said Court may be placed for service or execution shall duly return the same to the said Court not less than twenty-four hours before the time mentioned therein for the trial of the cause, and any constable or other peace officer neglecting or refusing to return any such summons or capias within forty-eight hours after notice from the Commissioner of the Court requiring him to do so, shall be liable to a penalty of not more than Twenty Dollars nor less than Two Dollars, to be recovered under the provisions of Chapter 125 of The Revised Statutes of New Brunswick, 1927. 1922, C. 93, S. 3.

150. (1) The constable serving a summons issued out of the City Court of Moncton shall return thereon in writing the time and place of service, and the manner in which the same was made, and he shall in all cases of service, whether personal or otherwise, verify the same by affidavit sworn to before the Commissioner of the City Court of Moncton, or a Commissioner for taking affidavits to be read in the Supreme Court. 1940, C. 61, S. 4 (1).

(2) When service of such summons is not personal service, no judgement by default shall be entered against the defendant unless the constable who served the summons makes oath in his affidavit of service that from enquiries made at the time of such service, he verily believes the defendant was, at the time of such service, within the limits of the County of Westmorland, stating his reasons for such belief. 1940, C. 61, S. 4 (2).

151. (1) Except as hereinbefore specifically provided, the fees to be taxed and taken for the commissioner, constable, witnesses and jurors in all civic actions in the City Court of Moncton shall be the fees set out in the table of fees to be taxed and taken for the magistrate, constable, witnesses and jurors respectively in the Civil Court under the provisions of The Town Incorporation Act. 1939, C. 82, S. 1.

(2) In defended cases, the Commissioner may, in his discretion, in addition to costs prescribed by the said table of fees, tax and allow a counsel fee to the successful party on the trial of the cause, not in any case to exceed Ten Dollars unless the trial occupies more than one full day, in which case the commissioner may add an additional sum not exceeding Five Dollars to be included with costs, recoverable on judgement; but he shall not tax a fee in any case unless, in his opinion, under the circumstances, the assistance of counsel was reasonable required. 1939, C.82,S.1.

152. The same right of review shall be had and allowed in all suits tried in the City Court of Moncton, as is provided in and by the law relating to Justices' Civil Courts. 1890, C. 60, S. 77.

153. No person other than the Commissioner of the City Court of Moncton or any Sitting Police Magistrate acting in his stead shall hold any civil court or try any civil causes with the said City in any matter over which the City Court of Moncton has jurisdiction. 1892, C. 38, S. 6.

154. The Lieutenant-Governor in Council shall, from time to time, appoint a fit and proper person to be the Commissioner of the City Court of Moncton, who shall hold office during pleasure, and who shall be ex-officio, a Justice of the Peace for the County of Westmorland; such Commissioner of the City Court of Moncton shall have and exercise all the powers conferred upon the Commissioner of the City Court of Moncton by this Act. The salary of such Commissioner shall not exceed the sum of Twelve Hundred Dollars per annum, and shall be paid out of the funds of the City. 1938, C. 89, S. 21.

155. The person now holding the office of Commissioner of the City Court of Moncton shall be Commissioner of the City Court of Moncton under the provisions of this Act, without being reappointed thereto and without again being required to take the oath of office. 1914, C. 93, S. 9.

156. All sums of money received by the said Commissioner or by any Sitting Police Magistrate acting in his stead, for fees or costs payable to him in actions tried in the said Civil Court, shall be paid over by the said Commissioner immediately after the first day of every month, together with an account under oath to be sworn before any justice of the Peace (which oath any justice is hereby authorized to administer) of all such moneys, to the Treasurer of said City of Moncton, to be placed to the credit of the Police Fund in the Treasury Department of the said City. 1890, C. 60, S. 81.

### **Fire Regulations**

157. The City Council is hereby authorized, from time to time, to purchase or lease such land in the City of Moncton as may be necessary for the purpose of the erection of a suitable building or buildings for the accommodation of such engines, hose, hook and ladder trucks and wagons, and other fire apparatus, and such other purposes as may be necessary for an efficient fire service in the City, and to erect suitable buildings thereon for that purpose, and also to purchase such fire engines, fire apparatus, articles and things, and to provide, erect, set up and maintain such wires, bells and apparatus for the purposes of fire alarm, as may be required from time to time, from such funds as may be voted or provided for that purpose by the City Council. 1890, C. 60, S. 86.

158. The several members of the several fire, hose and hook and ladder companies of the City of Moncton shall while on duty as such, have, exercise and enjoy all the powers, privileges and advantages of constables of the City of Moncton, for the purpose of the protection of property, the preservation of the peace and the prevention of interference with the firemen in the discharge of their duties at such fires, and also shall have full power and authority on the breaking out of fire within the City to order and direct persons present to form lines for handing on water or otherwise as may be necessary, and to prevent any persons interfering with such lines, and to prevent persons passing through or across any street, alley or highway in the vicinity of the fire, and to keep persons at a proper distance therefrom, and to give orders and directions as to the employment of the people present for the purpose of extinguishing the fire or preserving property or protecting the engines, hose and other fire apparatus, and for such purposes to extend chains or ropes along, through or across such streets, alleys or highways, and any person obstructing or opposing or assaulting any member of said companies in the discharge of his duty, or using violent, abusive or insulting language to such member, shall be liable to a penalty not exceeding Twenty Dollars, and in default of payment, shall be imprisoned for a period not exceeding twenty days. 1890, C. 60, S. 87.

159. (1) The City Council may by by-law compel all or any owners to place or cause to be placed on or in the respective buildings owned or occupied by them within the City, good and sufficient ladders or fire escapes for protection against or escape from fire, of such description and to be placed in such manner as may be specified in the by-law enacted for that purpose, and may in such by-law direct the type or types of buildings on or within which such ladders or fire escapes shall be placed. The City is authorized to install the required fire ladders or fire escapes when the owner or owners of any such buildings by refusal or neglect have failed to comply with the requirements of any by-law passed under the authority of this section and to recover the expenses incurred by such installation with all reasonable costs in any action of debt in any court of competent jurisdiction, and the same shall be a prior lien and charge upon the building and lands of such premises for a period of two years from the date of completion of such installation. 1950, C. 99, S. 18.

(2) The City Council of the said City may and it is hereby authorized by by-law or regulation to compel and require the removal from any lot within the said City, of any partially burned building or any building partially destroyed and any dilapidated or dangerous building, which, in the opinion of the Fire Chief or the Fire Prevention Officer, is of a conflagrative nature, or any wall, chimney, erection or other obstruction, which the Council deems dangerous and may also, in case of refusal or neglect of the owner or occupier as tenant or otherwise of any such lot to remove the said building or other obstruction remove the same or cause the same to be removed and

to recover the expenses of such removal with all reasonable costs, in any action of debt, in any court of competent jurisdiction. 1955, C. 123, S. 8.

(3) Whenever in the opinion of the City Council any building, wall, chimney, erection or other obstruction falls within the wording of subsection (2) of this Section but is not considered sufficiently dangerous at the time to require its immediate removal, the owner of the said building, wall, chimney, erection or other obstruction may be given permission by the City Council to allow such building, wall, chimney, erection or other obstruction to remain, providing the applicant post with the City a bond with such sureties and in such form as may be required by the City, indemnifying the City against all actions and compensating the users of City streets or the owners or the users of adjoining property for injury or damage occasioned by the failure of such building, wall, chimney, erection or other obstruction. 1952, C. 74, S. 9.

159A (1) In any case in which the Moncton Fire Department fights or assists in fighting any fire or fires outside the limits of the City of Moncton, the charge or charges of the City of Moncton therefor shall be paid by the Municipality in which such fire occurs. 1949, C. 119, S. 13.

(2) Nothing in this section contained shall be construed to impose an obligation on the City of Moncton to render any assistance at any fire outside the limits of the City of Moncton. 1949, C. 119, S. 13.

(3) No Municipality shall be liable for any such charge or charges in respect to any such fire or fires which occur after such Municipality has informed the City Council of the City of Moncton, in writing, that it does not require the assistance of the Moncton Fire Department, and has not cancelled such notification. 1949, C. 119, S. 13.

(4) Unless an agreement to the contrary has been made in writing between the City Council of the City of Moncton and the Municipality concerned, the charge to be made by the City of Moncton on account of such services rendered shall not be less than One Hundred Dollars and not to exceed the sum of Two Thousand Dollars; provided that in no case shall such charge be more than the actual cost to the City of Moncton attending at or fighting the fire for each call to which a response is made. 1959, C.129

### **Fire Investigations**

160. It shall be the duty of the Chief of the Fire Department or person acting as such, to inquire into and investigate the origin of all fires occurring within the City of Moncton, and in the case of a fire the origin of which is unknown, the Chief of the Fire Department for the purpose of such investigation shall have and possess all the powers given to a Commissioner appointed under Chapter 10 of The Revised Statutes, 1927. All the provisions of such Chapter in reference to witnesses, evidence, production of documents, commitment for refusal to appear or testify, and preservation of order in the court of such examination or inquiry shall apply and extend to the Chief of the Fire Department of the City of Moncton while acting hereunder and all acts, matters and things done by him in the course of such investigation, inquiry or preliminary thereto or consequent thereon. 1916, C. 82, S. 14.

### **Fire Limit Districts**

161. The City Council of the City of Moncton may, from time to time, by by-law or ordinance, alter, enlarge and extend the fire limit districts in the City of Moncton and may make new districts in lieu thereof and the number and boundaries of the said fire limit districts shall be entirely within the discretion of the said City Council. 1922, C. 77, S. 1.

162. The said City Council may, also by by-law or ordinance, from time to time, prescribe the nature of materials of which any or all buildings or structures hereafter to be constructed, erected, raised, enlarged, repaired, removed or roofed, within the said City shall be composed, in whole or in part, may make regulations respecting party walls or exterior walls dividing adjacent buildings or structures may prescribe the nature of the material, which shall be used for the covering or roofs, in different parts of the City, or of buildings or structures of different character in the same or any part of the said City. 1954, C. 152, S. 10.

162. A (1) The City Council of the City of Moncton is hereby authorized and empowered to enact by-laws regulating and controlling the class of building material or materials which may be used in the construction of any and all buildings or structures within the City of Moncton; to designate the manner and methods to be followed by a builder or builders in applying such materials in the course of erecting or constructing any structure, the minimum thickness of walls, including basement wall and footings thereof, the type of roof which may be used on any structure and the materials to be used in such construction, and to control all other matters or things entering into the construction of any and all buildings, and to enact by-laws regulating and controlling the class of building material or materials to be used in fence construction within the said City or structures. 1954, C. 152, S. 11.

162. (A) (2) Any code which may be issued by the National Research Council of Canada, The Canadian Standards Association of Canada or other similar National or Provincial Associations may be included by reference and become part of any by-law ordained and passed by the City Council of the City of Moncton and shall have the same force and effect as if written therein. The Ringlemann Chart as now published and used by the United States Bureau of Mines shall be the standard in The City of Moncton for the purpose of grading the density of smoke and may be included by reference and become part of any by-law ordained and passed by The City Council of The City of Moncton and shall have the same force and effect as if written therein. 1951, C. 89, S. 14.

163. No by-law or ordinance professing to be made under the authority of this Act, shall be held void or ineffective because of such by-law or ordinance being discriminating and it is hereby declared that it is the intention of this Act to confer upon the said City, for the purpose of better preventing conflagrations in the said City, the power to enact by-laws and ordinances dealing with the said subject, as fully as the same is capable of being dealt with by any Act of Legislature of this Province. 1922, C. 77, S. 3.

164. The said City Council shall have the power by by-law or ordinance, from time to time to declare what shall be deemed to be offensive occupation or use of any land, structure, building or buildings, enclosure, tent or vehicle in any part of the said City, and any one carrying on or maintaining such occupation or use in contravention to any such by-law shall be deemed to be guilty of a public nuisance, and in the making of any such by-law the said City Council, shall have the power to discriminate between occupations, uses and localities in which such occupations or uses may be carried on. 1954, C. 152, S. 11.

165. Any building or structure which, after the passing of any by-law or ordinance by the said City Council, under the last four preceding sections of this Act, shall be built, erected, raised, enlarged, repaired, removed or roofed within the said City of Moncton, contrary to any of the provisions of any such by-law or ordinance, shall be deemed and taken to be, and the same is hereby declared to be a public common nuisance. 1954, C. 152, S. 13.

166. In addition to any indictment which may be found or any action which may be brought for such nuisance, the person or persons who may erect or cause to be erected or attempt to erect or cause to be erected any such building, or structure declared by Section 165 of this Act to be a public and common nuisance, shall be liable to a penalty of not exceeding Twenty Dollars, and to the

further penalty of not less than Ten Dollars a day for each and every day on and during which such nuisance may be maintained or continued; and every such penalty shall and may be recovered with costs before the Police Magistrate of the City of Moncton on the information or complaint of the Inspector of Buildings, Chief Constable or City Engineer of the said City, by summary conviction in the same manner and with like effect as other penalties are recovered and enforced before the said Police Magistrate; and such fines and penalties shall when collected, be paid into the hands of the City Treasurer of the City of Moncton and form part of the funds of the Corporation of the said City. 1954, C. 152, S. 14.

167. (1) No building or structure shall be erected, constructed built or placed in any part of the City of Moncton, until a written permit shall have been first obtained from the Inspector; and no building in the City of Moncton shall be constructed, reconstructed, enlarged, altered, extended, raised or removed until a permit shall have been first obtained from the Inspector. 1954, C. 152, S. 15 (1).

(2) Before any of the work hereinbefore mentioned is commenced, such permit shall be posted and remain posted on the street side of the premises in such a manner as to be in plain view from the street. No builder, contractor, or sub-contractor shall commence work unless such permit is posted. 1954, C. 152, S. 15 (2).

(3) The fee for such permit shall be in such amount as the City Council may from time to time prescribe but shall not exceed the sum of Fifteen Dollars. 1949, C. 119, S. 14 (2).

168. Any person who shall commit any breach of the provisions of Section 167 of this Act, or do anything contrary thereto, is guilty of an offence under this Act, and shall be liable on summary conviction to a penalty not exceeding Fifty Dollars.

169. For each day on which any person shall permit the continuance of any matter or thing, or shall continue to do or continue to refuse or neglect to do any act or acts contrary to the provisions of this Act, or contrary to the provisions of any bylaw or by-laws of the City of Moncton, passed or to be passed under the authority of this Act, he shall be and be deemed to be guilty of a separate and distinct offence under this Act. 1902, C.85,S.25.

170. The said City Council may appoint an Inspector of Buildings and a Zoning Supervisor and from time to time, by by-law or ordinance, prescribe and define the duties of the said officers. Every owner of real estate shall allow the Inspector of Buildings to make a reasonable inspection of his property during daylight hours. The Inspector of Buildings is authorized to charge a fee of fifty cents for each search of his records for persons other than City officials. Such fees are to be paid over to the Receiver of Taxes monthly. 1952, C. 75, S. 12.

### Electrical Current

170A. The City Council of the City of Moncton is hereby authorized and empowered to regulate and control the installation, grounding and maintenance of wires and fixtures to be used for conveying electric current and electrical equipment in the City of Moncton, and generally to make all such by-laws and ordinances as may be necessary and proper for carrying into execution the powers herein vested and the City Council may, by such by-laws, rules and regulations, impose such fines and penalties and ordain such forfeitures as they may deem necessary for the nonobservance or breach of any such by-laws, rule or regulation not to exceed in any case the sum of One Hundred dollars, provided, however, no such by-law, ordinance or regulation shall prejudice or be contrary to, or in any way interfere with the provisions of an agreement dated the Eleventh day of May, 1910, and made between the City of Moncton of the one part, and Moncton Electricity and Gas

Company Limited, of the other part, relating to the use and distribution of gas and electricity in the City of Moncton by the said Company. 1947, C. 118, S. 7.

170B. For the purpose of enforcing and carrying out such bylaws the City Council is hereby authorized and empowered to appoint an Inspector of Electric Wiring, and to define the duties and term of office of such Inspector; and to remove or displace such officer and appoint another in his stead, and to grant such compensation to such officer for his services as the said City Council may see fit. Such officer shall be sworn or affirm before the Mayor of the City of Moncton that he will diligently, faithfully and impartially and to the best of his ability, discharge the duties appertaining to such office, so long as he shall hold the same. 1947, C. 118, S. 7.

### **Salvage Corps and Fire Police**

171. The City Council of the City of Moncton is hereby authorized and empowered to establish and maintain a Salvage Corps and Fire Police for the City of Moncton, to act in saving and protecting property at fires in the said City of Moncton and to purchase all necessary equipment and fittings therefor; provided, that the members of the said Salvage Corps and Fire Police, when organized, shall be under the control of the City Council of the said City of Moncton, which is hereby authorized and empowered to make ordinances, rules and regulations for the organization and government of the said Salvage Corps and Fire Police, not inconsistent with any act, rule or regulation in force regulating the Police or Fire Departments of the said City. 1911, C. 84, S.

172. The Assessors of the City of Moncton shall yearly assess for all such sum or sums as the City Council may direct for the purpose of equipping and maintaining the said Salvage Corps and Fire Police. 1911, C. 84, S. 3.

173. The several members of the Salvage Corp and Fire Police of the City of Moncton shall, while on duty as such, have, exercise and enjoy all the powers, privileges and advantages of constables of the City of Moncton, and of members of the Police Force of the City of Moncton, for the purpose of protection of property, the preservation of peace, and the prevention of interference with the firemen and members of the said Corps in the discharge of their duties at any fire, and also shall have full power and authority on the breaking out of fire within the City of Moncton to prevent persons passing through or across any street, alley or highway in the vicinity of the fire, and to keep persons at a proper distance therefrom, and for such purpose, to extend chains or ropes along, through or across such streets, alleys or highways. They shall have full power and authority to enter any building that may be on fire or any adjoining building that may be threatened by the spread of such fire, and have access to any street, alleyway or lands connected with any such premises. They shall have full power to arrest and convey to the Police Station of the City of Moncton any person who shall obstruct them in the discharge of their duty or any one who shall intermeddle with any property that is being salvaged. 1913, C. 74, S. 1.

174. Any person obstructing or assaulting any member of the Salvage Corps and Fire Police in the discharge of his duty or using violent, abusive or insulting language to such member, shall on summary conviction before the Police Magistrate be liable to a penalty not exceeding Twenty Dollars for each and every such offence. 1913, C. 74, S. 2.

### **Building Zones**

175. The City Council of the City of Moncton is hereby authorized and empowered from time to time to make, ordain, pass and adopt, and from time to time amend and rescind any by-law or by-laws dividing the City of Moncton or any portion or portions thereof into building zones or districts, declaring any zones or districts to be residential zones or districts and for prescribing the distance from the line of street in front of it at which any building in a residential zone or district

shall be erected or placed; to regulate the class, type of construction, location, use or occupation of any and all buildings to be built, enlarged or repaired within the said zones or districts or any of them, and in case of the removal of any building or buildings, to direct where and how the same shall be placed and to prohibit the erection of any and all buildings sought to be erected, constructed or repaired, contrary to the said by-law or by-laws or any of them. 1923, C. 70, S.1.

176. Any person who violates any of the provisions of the last preceding section, or of any by-law made thereunder, shall be deemed to be guilty of an offence and liable to a penalty not exceeding Fifty Dollars and to a further penalty of not less than Ten Dollars a day for each and every day during which such violation may be maintained or continued and the penalties herein provided for may be sued for and recovered upon summary conviction in the name of the Receiver of Taxes for the City of Moncton. 1932, C. 70, S. 2.

#### **Almshouse**

177. The City of Moncton shall support and maintain the poor having a settlement within the City of Moncton, as hereinafter provided. 1890, C. 60, S. 94.

178. The City Council shall have the charge and care of the premises and buildings heretofore used as an Almshouse by the Municipal Home Commissioners of the City of Moncton, and is also hereby authorized to lease or purchase such further land in some suitable place in the City of Moncton or its vicinity in the name of and to vest in the City of Moncton, and to erect such further building or buildings as may from time to time be required for the purposes of the Almshouse and Workhouse for the City of Moncton, and all lands, buildings and property, real and personal, while used and employed for the purposes aforesaid, shall be exempt from all rates and taxes levied or assessed by or with the authority of the County Council of the County of Westmorland. 1951, C. 89, S. 16.

179. (1) The City Council shall appoint three fit and proper persons, residents of the City of Moncton, to be Commissioners of the Poor of the City of Moncton, who shall be called "Municipal Home Commissioners of the City of Moncton," who in addition to the powers and duties vested in them by the provisions of this Act, shall have and exercise all the authority and power for looking after and taking care of the poor in said City, vested in the Overseer of the poor, under any statute or law now in force or that may hereafter be in force relating thereto. The said City Council shall appoint one of said Commissioners to be the Secretary thereof and shall from time to time prescribe his duties and fix his salary. The other Commissioners shall be paid for their services such salary as may from time to time be determined by the City Council. 1951, C. 89, S. 17.

(2) The City through the City Council or the Municipal Home Commissioners of the City of Moncton may contract with the Municipal Home Commissioners of the County of Westmorland or any other person or persons to provide for the maintenance of any person or persons for whom the City of Moncton is responsible, and authority is also granted to the City to lease its present Almshouse buildings and premises. 1951, C. 89, S. 18.

180. Subject to the provisions of this Act, the persons now acting as Municipal Home Commissioners of the City of Moncton shall continue to be the Municipal Home Commissioners of the City of Moncton, and the City Council shall fill the vacancy next occurring in said Board, and the said members shall retire in rotation each year after three years' service as heretofore, and the City Council shall fill such vacancies from time to time. The City Council may at any time remove and dismiss the said Commissioners or any of them from office and appoint others in their stead, and in case of the death, resignation, neglect or refusal to act or removal from office of any Commissioner, the City Council shall appoint a person to fill such vacancy, and the person so appointed shall hold the said office for the said unexpired term; provided always, that the Council

may, with the consent of such person, reappoint any person whose term of office has duly expired, but no person shall be compelled to serve again as such Commissioner until after six years from the expiring of his last term of office. 1951, C. 89, S. 19.

181. Any person appointed as aforesaid as such Commissioner shall forthwith and within five days after receiving notice of his appointment, take and subscribe the following oath of office before any Justice of the Peace, and file the same with the City Clerk:—

"I A. B., do solemnly swear (or affirm) that I will diligently, faithfully and impartially, and to the best of my ability, discharge the duties which appertain to the office or position of Municipal Home Commissioner of the City of Moncton, while I hold the same—So help me God."

And if he shall neglect or refuse to accept said office and to take the said oath within such time as aforesaid, he shall forfeit and pay the sum of Ten Dollars. 1951, C. 89, S. 20.

182. The said Commissioner shall elect from among themselves a Chairman. They shall have power to make such rules, orders and regulations for their own government, and for the good government and management of the said Almshouse and Workhouse, and the premises connected therewith, as they may find necessary (such orders, rules and regulations however, to become effective only when approved of by the City Council of the City of Moncton), and to inflict such correction and punishment, by solitary confinement or otherwise, from time to time, as to them shall seem reasonable (not however, to exceed a time to be fixed by the regulations aforesaid), on any person or persons within the said almshouse or workhouse who shall not conform to such rules, orders or regulations, or who, being able, shall refuse to work when required so to do, or shall misbehave in the same. 1938, C.89,S.6.

183. The said Commissioners are hereby empowered(l to employ a matron or keeper of such almshouse, and such other help as may be necessary from time to time, and to purchase and provide such stock, material and things as they shall judge necessary for the said almshouse, workhouse and premises therewith connected (not exceeding however in any year the sum authorized to be expended), and for setting to work and employing such poor persons of whatever age or sex they may be, who may apply for or be entitled to relief and able to work, and shall have power and authority in their discretion to compel any idle or poor persons within the said City begging or seeking relief as do not betake themselves to some lawful employment, or who do or shall hereafter seek to receive alms in the said City, or who stand in need of relief therefrom to be removed and to inhabit, dwell and work in and about the said almshouse and workhouse, and the farm or premises in connection therewith, and to do all such work as the said Commissioners shall think them able and fit for; and shall have the same powers to bind out poor children apprentices as are by the laws of this Province given to the Overseer of the Poor in the several Towns or Parishes. 1890, C. 60, S. 100.

184. The said Commissioners shall annually make up their accounts to the first of January in each year, showing all amounts received by them from all sources in detail and the differed amounts received, and the name of the party paying the same, and the details of all amounts paid out~ showing the names to whom paid and the different amounts, and shall keep and show proper accounts and vouchers for the same, the names of the different persons maintained or relieved during the year, both residents of the City and such as may have been received from Parishes outside of the City, and the place of residence of such persons and the amounts received from Parishes outside of the City for the maintenance of such poor persons, and an estimate of the several amounts required for the ensuing year, showing the different purposes for which the same may be required, and the City Council shall cause the said accounts to be audited and the said Council is hereby authorized to order the said amount so estimated to be required as aforesaid, or so much as the said Council shall deem necessary, to be expended for the purpose of the maintenance

of the poor and the said almshouse and workhouse and premises, to be assessed, levied and raised in the same manner as any other general tax for the City purposes, and when raised and received shall be paid to the said Commissioners for the uses and purposes aforesaid, and no other. 1890, C. 60, S.101.

185. The profits of any work or labour to be performed under the direction of the said Commissioners as well as all amounts that may be received for the support of any poor persons from outside Parishes, or from any other source, shall be applied towards the support and maintenance of the persons inhabiting such almshouse and workhouse, and shall be duly accounted for by said Commissioners. 1938, C. 89, S. 7.

186. The members of the City Council of the City of Moncton or any person they may from time to time appoint for that purpose, shall have liberty to visit the said almshouse and workhouse at all reasonable times for any purpose connected with the management of the same, and shall have full power and authority to examine and inspect all the details of the management and in and outdoor economy of the same, and also into the character, conduct and employment of each and every one of the inmates, and the books and accounts of the said Commissioners in reference to the said Institution and the management thereof. 1890, C. 60, S. 103.

187. The said Commissioners are hereby authorized to admit, receive and care for in the said almshouse and workhouse the paupers of the Parish of Moncton, outside the City of Moncton, or any other of the Parishes of the County of Westmorland, or any other such paupers under special contract or agreement as they, the said Commissioners with the approval of the said City Council, may make with the Overseer of the Poor of such Parish or Parishes from time to time and also to fix a scale of fees, with the approval of the said City Council from time to time, to be paid by such Overseer of the Poor of said Parish or Parishes for the admission of such pauper or paupers. 1890, C. 60, S. 104.

188. The provisions of Chapter 203 of The Revised Statutes of New Brunswick 1921 or any other general Act of the Legislature of said Province in force in said Province in reference to the settlement and management of the poor, so far as the same are applicable and not inconsistent with the provisions of this Act shall and the same are hereby made to apply to the settlement, management and care of the poor in the City of Moncton under this Act; and the said Commissioners, by the name of "The Municipal Home Commissioners of the City of Moncton" shall have the power and they are hereby authorized to give all such notices, take all proceedings, and bring all such actions and suits as the Overseer of the Poor by such Acts are authorized to give, take and bring. 1951, C. 89, S. 21.

189. (1) The said Commissioners may in special cases, where for any good reason it shall appear to be advisable, aid in the support and maintenance of any poor person outside of the said almshouse in such way and manner as to them may appear advisable. 1954, C. 152, S. 16.

(2) No such aid shall be given until the requisition thereof is countersigned by the Secretary or in his absence from the City or for other good cause, by the City Clerk. The Secretary shall file with the City Clerk each and every month, a statement showing the name, address, date and amount of each and every expenditure made under the provisions of this Subsection. The provisions of subsection (2) are mandatory and directive. 1954, C. 152, S. 16 (2).

190. None of the said Commissioners shall be capable of holding any office, place or employment in, about or connected with the said almshouse and workhouse, for or by means of which any salary, fee, emolument or perquisite can be derived, nor shall any Commissioner either by himself or his partner be engaged or interested in any way whatever, either as security or otherwise, in any

contract for or on account of the said almshouse and workhouse, or in furnishing any supplies, goods, materials, provisions or articles whatever for the use thereof. 1890, C. 60, S. 110.

191. The City Council of the City of Moncton is hereby authorized and empowered to lease, purchase or otherwise acquire a suitable lot, tract or farm of land in some suitable place in the City of Moncton or its vicinity in the name of and to vest in the City of Moncton, with suitable buildings, if such can be obtained; and in case there are no suitable buildings on such land, then to erect such buildings as are required to be used and occupied for the purpose of an almshouse and workhouse for the said City of Moncton, either on lands now owned by said City or on lands acquired as aforesaid, and the said farm lands, buildings and property, both real and personal, while used and employed for the purposes aforesaid, shall be exempt from all rates and taxes, levied or assessed by or with authority of the City Council of the City of Moncton, or the County Council of the County of Westmorland. Should the said buildings at any time be destroyed by fire, or otherwise, then, and in such case the City Council shall have authority to rebuild the same, and if necessary, to purchase other lands in connection therewith. 1922, C. 93, S. 9.

191A. (a) Notwithstanding anything in this Act contained, the City Council of the City of Moncton may at any time enact by By-Law to provide for the Moncton Family and Childrens' Services to take over, assume and administer the duties, rights, liabilities and privileges of the Municipal Home Commissioners of the City of Moncton as fully and completely as by this Act the said Municipal Home Commissioners of the City of Moncton are authorized so to do.

(b) And the said City Council of the City of Moncton is authorized to make regulations under the said by-law for the administration by the Moncton Family and Childrens' Services in all matters relating to the care and support of the poor in the said City of Moncton.

(c) The provisions of Sections 177 to 191 inclusive of this Act shall apply mutatis mutandis to the provisions of this Section. 1960, C. 126.

### **Disposal of Garbage**

192. It shall be lawful for the City of Moncton, and the said City is hereby authorized and empowered by and through its City Council, and by a majority vote of all the members thereof, at any time and from time to time hereafter,

(a) To establish, maintain and operate a public system of collection and disposal of ashes, garbage and other refuse in the said City by any method or methods it may deem desirable; to acquire such real estate either in Westmorland or Albert Counties as may be required for such purpose, and generally to do all such other acts and things as are incidental and conducive to or consequential upon the attainment of these objects; or

(b) To entrust the management and operation of such system to a private contractor or contractors, corporation or corporations on such terms as it may deem fit and proper, or to the control and management of a separate department of the City of Moncton, or combine the operation of such system with any other department of the City of Moncton. 1945, C. 74, S. 1.

193. The City Council of the City of Moncton shall have full power from time to time to make such ordinances, by-laws and regulations as the said Council may deem requisite and necessary for the collection, removal and disposal of ashes, garbage and other refuse, and to impose penalties not in any case to exceed the sum of Forty Dollars with costs for each offence, which penalties may be recovered upon summary conviction in the name of the Chief Constable of the said City. 1945, C. 74, S. 2.

194. The City of Moncton is hereby authorized and empowered, in addition to the yearly assessment for other civic purposes, to assess for such sum of money as may be required to defray the expenses of the removal and disposal of such ashes, garbage and other refuse as aforesaid, or to raise such funds as the Council deems necessary for the purposes aforesaid, or any of them, by direct charge against the persons, companies and corporations served by such system within the City, or by such other manner or means as the said City Council may deem desirable or necessary from time to time by resolution. 1945, C. 74, S. 3.

195. No person shall in the said City dispose of or deliver ashes, garbage or other refuse, whether the same be his property or not, except to such person as may be collecting, removing and disposing of the same in accordance with any of the provisions mentioned in Section 192 of this Act, under the same penalty as is provided by Section 193 of this Act, to be recovered as therein provided. 1945, C. 74, S. 4.

### **Pensions**

196. The said City is hereby authorized and empowered to levy and assess such sum or sums of money as in its discretion is necessary for the purpose of providing for, either by gratuity, pension or otherwise, the Police Magistrate for the City of Moncton, the keeper or former keeper of the almshouse and any aged or incapacitated civic employees and to establish, maintain, participate in or contribute to an Employees' Pension Scheme and to assess annually therefor and to formulate rules and regulations for the proper carrying out of the intent of this section. 1949, C. 119, S. 15.

197. The said City may assess such sums of money as may be required under the last preceding section of this Act, annually, upon the ratepayers of the said City, and collect the same, in the same manner as other rates and taxes are assessed and collected. 1923, C. 62, S. 5.

### **Plebiscite**

198. The City Council of the City of Moncton may, at any time, submit any proposal or question to the ratepayers of the City of Moncton for a plebiscite, and the said Council is hereby invested with full authority to direct the manner in which such plebiscite shall be conducted and to adopt a form of ballot to be used in taking the vote. Every person who was duly qualified to vote at the next last preceding election of Mayor and Aldermen in the said City shall be qualified to vote on the taking of such plebiscite, except where a plebiscite is held at the same time as the election of Mayor and Aldermen, then a person qualified to vote at that election is qualified to vote at such plebiscite. Previous to taking such vote, the City Council shall give public notice of the proposed taking of such vote by publishing a notice for two weeks in two daily newspapers published in the City of Moncton of the time, place and manner in which such vote shall be taken, together with a succinct statement of the proposal or question in issue. If a majority of the votes cast on the holding of such plebiscite are, in favour of such proposal or question, the City Council shall cause an entry of the result of such vote to be made in the minutes of the Council, and thereupon take such proceedings in reference thereto as it may deem proper in the circumstances. 1952, C. 74, S. 13.

198A. Fees to be paid to a polling officer on the holding of a plebiscite shall not exceed the sum of ten dollars per day and the fee to be paid to a poll clerk shall not exceed the sum of eight dollars per day. 1950, C. 99, S. 21.

### **Gasoline Service Stations, Storage Tanks and Pumps and Public Garages**

199. The City of Moncton is hereby empowered to prohibit by by-law, the use or occupation for the purpose of a gasoline service station of any building or parcel of land not hitherto used as or for

a gasoline service station within such areas in the said City as the City Council shall deem desirable. 1931, C. 83, S. 1.

200. No person shall within the City of Moncton carry on the business of a gasoline service station or public garage, or maintain and operate wholesale storage tank or tanks unless licensed so to do by the Mayor of the said City; and the City Council of the said City is hereby empowered to prescribe the conditions under which such licenses shall be issued and to fix the fees payable therefor; provided, however, that such license fee shall be for the purpose of registration only, and shall not exceed the sum of Five Dollars per pump; and further provided, that the right of the City Council of the said City to prescribe the conditions under which such license shall be issued, shall not apply to such gasoline service stations, public garages and other gasoline pumps or wholesale storage tank or tanks at present existing or doing business in the said City, providing the standards of health and safety of such gasoline service stations, public garages and other gasoline pumps or wholesale storage tank or tanks are maintained to the satisfaction of the City Engineer of the City of Moncton. 1931, C. 83, S. 2.

201. In any by-law passed under the powers conferred by Section 199 of this Act, the term "Gasoline Service Station" shall mean any place where gasoline is sold for the use of motor vehicles. 1931, C. 83, S. 3.

202. Any person who violates any of the provisions of Section 200 of this Act or of any by-law made under the authority of Section 199 of this Act shall be deemed to be guilty of an offence and liable on summary conviction to a penalty not exceeding Fifty Dollars, and to a further penalty of not less than Ten Dollars a day for each and every day during which such violation may be maintained or continued. 1950, C. 99, S. 22.

### **Water and Light**

203. The City Council of the City of Moncton shall annually hereafter, at the time of appointing other City Officers, appoint a fit and proper person as Accountant of the Water and Lighting System of the said City, and an Engineer and such other officers as may be necessary to carry out the powers vested in the City Council in relation to the Water and Lighting System, and to remove or displace any of said officers, and appoint others in their stead; to impose penalties for the nonperformance of the duties, and for the wrong doings of said officers, and to grant compensation to said officers for their services as the City Council may think fit, and to define the duties and respective terms of office; provided that no person shall be capable of acting in any office to which he may be appointed until he shall have been sworn or have affirmed before the Mayor or Commissioner of the City Court of Moncton that he will diligently, faithfully and impartially, and to the best of his ability, discharge the duties pertaining to the office to which he has been appointed so long as he holds the same. 1896, C. 57, S. 1.

204. The Engineer shall have the general supervision of all the property and works of the water and lighting system of said City, under the direction and control of the water and light committee, and shall see that the same and all parts thereof, are kept in good working order, and shall keep the water and light committee informed as to the condition of the same. He shall submit by the thirty-first day of December in each year, a full and detailed report of the condition of the works, and a statement in detail of all material on hand, and also of all apparatus and property belonging to the works. He shall prepare all plans required in connection with the said works, and he shall set out and define by metes and bounds, all lands acquired by the City in connection with said works. 1896, C. 57, S. 2.

205. No person who by virtue of the office to which he may have been appointed, shall be accountable for the revenues from the water and light department of said City, or any portion

thereof, shall be capable of acting in such office until he shall have given security for the faithful performance of the duties of his office, and the due accounting for all moneys and funds coming into his hands, which security shall be of such a nature and in such form and to such an amount as the City Council may by by-law prescribe or otherwise approve of, but said security in the case of the Account and of the Assistant Accountant shall in each case be not less than Ten Thousand Dollars. 1896, C. 57, S. 3.

206. The said Accountant shall receive all moneys due and payable to said City, from any source whatever in connection with said Water and Light Department, and he shall keep proper books of account, showing in detail the amounts of receipts and expenditures of said City in connection with the water and light department, and the names of all persons from whom money is received and to whom money is paid, and shall take vouchers for all payments, and shall keep and preserve all other books of account and papers in connection with the said water and light department. He shall devote all his time to the duties of the office in such reasonable business hours as the City Council may determine, and keep the office open during said hours for the transaction of business. He shall also deposit daily all money received by him in a bank to be designated by the Council to the Credit of the City of Moncton Water and Light Department, and shall sign with the Mayor of the City, all cheques upon said bank for any amount which the Council may order to be paid in connection with the Water and Light Department of said City. 1896, C. 57, S. 4.

207. Any person wishing to be supplied with water must obtain a permit from the Accountant, specifying the particular purpose for which such water may be used, and any person using water without such permit or for any purpose other than that specified therein, shall be liable on summary conviction to a penalty not exceeding Twenty Dollars. 1896, C. 57, S. 6.

208. If any person shall lay, or cause to be laid, any pipe or main to communicate with any pipe or main belonging to the said City, or in any way obtain or use its water without a permit from the Accountant, he shall be liable on summary conviction to a penalty not exceeding Twenty Dollars, and also a further penalty not exceeding Four Dollars for each day such pipe or main shall so remain. 1896, C. 57, S. 7.

209. If any person shall increase the supply of water agreed for with the said City by wrongfully, negligently or wastefully using the same, or by wrongfully or improperly wasting or using the same in any manner, he shall be liable on summary conviction to a penalty not exceeding Twenty Dollars. 1896, C. 57, S. 8.

210. If any person or persons, company or companies, or any corporate, supplied with water by the said City shall neglect to pay any rate, rent or charge due to the said City at any of the times fixed for the payment thereof, it shall be lawful for the said City or any person acting under its authority, on giving twenty-four hours previous notice, to stop the water from entering the premises, service pipes or meters of any such person, company or body corporate, by cutting off the service pipe or pipes, or by such other means as the said City shall see fit, and to recover the said rent or charge due up to the said time, together with the expense of cutting off the water, in any competent court notwithstanding any contract to furnish for a longer time, and in all cases where it shall be lawful for the said City to cut off and take away the supply of water from any house, building or premises under the provisions of this Act, it shall be lawful for the said City, by its agents or workmen, upon giving forty-eight hours previous notice to the occupier or persons in charge to enter into any such house, building or premises at any reasonable time in the daytime, making as little disturbance or inconvenience as possible and to remove, take and carry away any pipe, meter, cock, fitting or apparatus, the property of and belonging to the said City, and it shall also be lawful for any servant of the said City duly authorized to enter any house into which water may have been or be taken at any reasonable time in the daytime, for the purpose of inspecting, examining and repairing any meter, pipe or apparatus belonging to the said City, or used for supplying its water, and if any

person shall refuse to permit or do not permit the servants or officers of the said City to enter and perform the said acts aforesaid, any such person or persons so refusing or obstructing shall be liable on summary conviction to a penalty for every such refusal or obstructing, not exceeding Twenty Dollars, and a further penalty not exceeding Four Dollars for every day during which such neglect, refusal or obstruction shall continue. 1896, C. 57, S. 9.

211. Where pipes are laid for the supply of water to any building or premises in the City of Moncton, the City Council of the said City shall charge the owner of such building or premises for any water supplied thereto, such rates as shall from time to time be fixed by the said City Council, and such rates shall be payable quarterly in advance on the first day of January, April, July and October respectively in each and every year at the office of the Accountant of the Water and Light Department of the City of Moncton. All water rates remaining unpaid after the same become due and payable shall thereafter bear interest at the rate of one and one half per centum per month, or part of a month, until paid. 1920, C. 107, S. 3.; 1971, C.85; 1975, C. 72.

212. When the water shall be shut off from any building or premises from any default of the person using the same, the sum of One Dollar may be charged by the said City for letting it on again. 1896, C. 57, S. 12.

213. Persons taking water will do so at their own expense in all things except for the service pipe in the street, and must keep their own service pipe, stopcock, faucet and apparatus in good repair, and protect them from frost, and prevent all unnecessary waste of water. 1896, C. 57, S. 13.

214. Plasterers, bricklayers, stonemasons and concrete workers shall not take or use the City water without a building permit for every separate job, and any person suffering others to get water from his faucets, hydrants or premises without first exhibiting a permit, shall be liable on summary conviction to a penalty not exceeding Twenty Dollars for each offence. 1896, C.57,S. 14.

215. When water shall have been supplied to any house, building or premises in the City of Moncton, the owner of the said house, building or premises, during the time that water shall have been supplied to the same, shall be liable for and compellable to pay the rates due for the same, in an action of debt in the City Court of Moncton or in any other Court of competent jurisdiction. In case of nonpayment of the whole or any part of the rates payable for water supplied to any house, building or premises in said City, the water may be shut off from such house, building or premises, after giving notice as hereinbefore provided, and kept shut off until all water rates for water supplied thereto in arrears have been fully paid, notwithstanding any change in the ownership of the said house, building or premises, since such rates became payable. 1902, C. 68, S. 1.

216. No person shall be entitled to damages, nor to have any portion of the payment refunded for any stoppage of supply caused by accident to any portion of the works, or for any stoppage for purposes of additions or repairs or for the purpose of putting in or repairing any of the service pipes for any purpose whatever, which in the opinion of the Water and Light Committee of the City Council may be deemed necessary. 1896, C. 57, S. 16.

217. The City Council of the City of Moncton may refuse and decline to connect water with plumbing which has not been done in a proper manner, or which has not been examined and approved by the Engineer of the said Water and Light Department. 1896, C.57, S. 17.

218. Before proceeding to construct, reconstruct, alter or extend any portion of the drainage or water system of any hotel, warehouse, dwelling house or other building within said City, the owner or his agent desiring to construct, reconstruct, alter or extend the same, shall file in the office of the said Accountant of the Water and Light Department, an application for a permit therefor, and such application shall be accompanied with a specification or abstract thereof, stating the nature of the

work to be done, and giving the size, kind and weight of all pipes, traps and fittings and a description of all closets, bath tubs and other fixtures, and also a plan thereof, and any person violating the provisions of this section shall be liable on summary conviction to a penalty not exceeding Twenty Dollars, for each and every offence. 1896, C. 57, S. 18.

219. Every plumber who shall himself or by his apprentices, agents or employees, construct, reconstruct, alter or extend any of the drainage or water system in any hotel, warehouse, dwelling house or other building in said City, or make any extension or alteration to, or shall remove any tap, pipe or other fixture attached or connected with the water system in any such building, shall within ten days after such construction, reconstruction, extension, alteration or removal is made, report the nature and extent of the same in writing to the Accountant of the Water and Light Department of said City and any persons violating any of the provisions of this section shall be liable on summary conviction to a penalty not exceeding Twenty Dollars for each and every offence. 1896, C. 57, S. 19.

220. Any person who shall wilfully break or cause to be broken damaged or injured any water pipe, water hydrant, or any other thing belonging to or in connection with the water system of said City, shall be liable on summary conviction to a penalty not exceeding Fifty Dollars. 1896, C. 57, 20.

221. Any person who shall open any fire hydrant in the City of Moncton, or interfere with the same in any way, except in case of fire or under the direction of the Engineer of the Water and Light Department, shall be liable on summary conviction to a penalty not exceeding Twenty Dollars. 1896, C. 57, S. 21.

222. Whenever water from the City mains is not taken and used in any dwelling house, shop or place of business, situate on any lands and tenements adjoining any street through which the City mains for the supply of water do or shall pass the owner in fee of such lands and tenements or the lease-holder thereof for any term of years, shall be charged with and be liable and compellable to pay a half rate for a half inch service in respect of such dwelling house, shop or place of business; such amount may be sued for and recovered by the City of Moncton in an action of debt, in the City Court of Moncton, or in any other court of competent jurisdiction. 1902, C. 68, S. 5.

223. When any dwelling house, shop or place of business to which the provisions of the last preceding section of this Act are applicable, and also any house, building or premises which shall have been supplied with water from the water system of the City of Moncton shall become vacant, and the owner thereof shall give notice in writing to that effect at the office of the Accountant, he shall not be held liable for the payment of water rates during the time such dwelling house, shop or place of business, building or premises shall remain vacant. 1902, C. 68, S. 6.

224. All debts that from and after the passing of this Act shall become due and payable to the City of Moncton for or by reason of the supply of water to any person or persons, or to any building or premises, or to the owners or occupiers thereof, or otherwise in connection with the said Water and Light Department shall be privileged debts, and shall be paid in preference to all other debts except debts due the crown, and may be sued for and recovered by the City of Moncton, in an action of debt in the City Court of Moncton, or any other Court of competent jurisdiction. 1896, C. 57, S. 23.

225. On the trial of any action for the recovery of any debt by the City of Moncton under the authority of this Act, in any Court, or before any person or persons having by law or by consent of parties authority to hear, receive and examine evidence, entries in any book or books of account, kept by or for the City of Moncton in connection with the Water and Light Department, shall, on proof of their being in the handwriting of the Accountant of the water system of the City of Moncton for the time, or of any clerk or assistant in the office of the Accountant and upon further proof that such Accountant, Clerk or Assistant is without the limits of the Province, or for any reason cannot be served with a subpoena to give evidence at such trial, be admissible in evidence

and be taken as *prima facie* proof of the correctness of the statements contained in such entries, provided said Court, or person or persons hereinbefore mentioned are satisfied on view of the same or otherwise, that such entries and statements were made in such book or books in the ordinary course of business; provided that nothing in this Act contained shall in any way affect any action, suit or proceeding now pending in any Court of law or equity in the Province of New Brunswick. 1902, C. 68, S. 2.

226. The City Council of the City of Moncton is hereby authorized and empowered from time to time, to make such ordinances, by-laws, rules and regulations as to the said Council shall seem requisite and necessary to regulate the price, rents and rates to be charged for the use of water supplied by the City of Moncton, and also generally regarding every matter and thing which may be necessary or expedient to regulate and direct the carrying out of all matters connected with the water and light department of said City and in order to secure to the inhabitants of said City an abundant supply of water; provided that no such ordinance, by-law, rule or regulation shall be inconsistent with the provisions of this Act. 1905, C. 45, S. 5, (3).

227. The Water and Light Committee of the City Council of the City of Moncton shall consist of all the members of the said City Council for the time being, of which Committee the Mayor of the City of Moncton for the time being shall be the Chairman. 1905, C. 45, S. 2.

228. All debts which shall hereafter become due, owing or payable to the City of Moncton for water supply to any building or premises, shall be for two years a first lien and charge upon the lands, buildings and premises to which the water is so supplied. 1896, C. 57, S. 27.

229. Any notice to be given under the authority of this Act respecting the water system of the City of Moncton, may be served personally, or in case the person to whom the notice is to be given has a known place of abode within the Province of New Brunswick, such notice may be served at such place of abode by delivering a copy or duplicate thereof to the wife of such person or to an adult person residing in the house and being an inmate of his family; or service of such notice may be effected by leaving a copy or duplicate of the same at the place of business within the Province of New Brunswick, of the person to whom notice is to be given with an agent or clerk or other adult person in the employment of such person in such business; or in case the person to whom notice is to be given has neither a place of abode nor a place of business within the Province of New Brunswick, then such notice may be served by delivering a copy or duplicate thereof to any known agent, clerk, servant or employee of such person, in the County of Westmorland. 1902, C. 68, S. 4.

230. The City Council of the City of Moncton may at any time appoint an Assistant Accountant of the Water and Light Department who shall devote the whole of his time to the service of the City, and all acts done by such Assistant shall be as valid and effectual as if done by the Accountant. 1914, C. 95, S. 3.

231. The City Council of the City of Moncton is hereby authorized and empowered, from time to time, to borrow from any incorporated bank carrying on business in the City of Moncton, such sum or sums of money as may be required for any purpose in connection with the operation of the water and lighting system of the City of Moncton, in excess of revenue; provided that the amount of such loan at any time remaining unpaid shall not exceed in all the sum of One Million Five Hundred Thousand Dollars. 1957, C. 123, S. 11 (C. 123, 1961-62)

232. The City Council is hereby authorized and empowered to make contracts for the supply of water to consumers outside the City of Moncton, provided, however, any contracts so made by the City of Moncton shall not be subject to the jurisdiction of the Board of Public Utilities. 1948, C. 123, S. 8.

233. All acts and by-laws applicable to the collection of accounts, rates and assessments for water consumed in the City of Moncton shall apply to the collection of accounts, rates and assessments for water supplied to consumers outside the City of Moncton. 1949, C. 119, S. 16.

### Miscellaneous

234. The books, papers and accounts of and connected with any office or department of the said City shall at all times be open to the inspection of the Mayor or any Alderman. 1890, C. 60, S. 127.

235. Any committee of the City Council of the City of Moncton shall have power at any meeting of such committee, to suspend any employee of the City of Moncton belonging to the department over which such committee has supervision or any policeman for the City of Moncton until the then next meeting of the City Council. No person suspended under the provisions of this section shall be entitled to receive any salary or wages from the City of Moncton for the period of such suspension, unless the action of such committee in suspending such person shall be disapproved by a resolution of the City Council passed at the first or second meeting of the City Council after such suspension. 1906, C. 52, S. 4.

236. The books of accounts of the said corporation, showing the amounts, particulars, state and circumstances and also the receipts and expenditures of the property, funds, taxes, effects and fees belonging and accruing or payable to the said corporation or any of its officers and a full and particular account of the same shall be deposited and kept in the office of the Clerk, and shall be there exhibited for the inspection and examination of every elector of the City, who may within the usual office hours on any business day apply to inspect and see the same, on payment of twenty cents for every such inspection or search. 1890, C. 60, S. 128.

237. All fines, penalties and forfeitures imposed by any Act of the Legislative Assembly of this Province, the provisions of which are, or may be applicable to the City of Moncton only, or by or under any law, by-law, ordinance or regulation of the City of Moncton, or of the City Council of the City of Moncton, shall unless hereinbefore otherwise specially provided be sued for, prosecuted and recovered and enforced, together with any costs adjudged, either in the name of the City Clerk or Deputy City Clerk of the City of Moncton for the time being, in the name of the Chief of Police or Deputy Chief of Police of the City of Moncton for the time being, or in the name of any Inspector of Police or Lieutenant of Police of the City of Moncton acting in the absence of the said Chief of Police, for the use of the City of Moncton, before the Police Magistrate, in the manner prescribed for the recovery of fines and penalties by Chapter 125 of The Revised Statutes. 1927. 1944, C. 59, S. 2.

238. A copy of the by-laws or ordinances of the City of Moncton, or any one or more of them, certified by the City Clerk of the City of Moncton to have been compared with the original and to be a true copy, shall, without proof of the official character of the City Clerk or his handwriting, be prima facie evidence in all courts of the passage and existence of such by-law or by-laws or ordinances. 1890, C. 60, S. 130.

239. All Constables, policemen or other peace officers appointed under this Act, may serve and execute any process issued out of the City Court of Moncton, or by the Police Magistrate or Sitting Police Magistrate acting in his stead, in any part of the County of Westmorland, and the said constables, policemen or other peace officers shall be entitled to the benefit of all laws passed for the protection of constables, and now or hereafter to be forced in the Province. 1890, C. 60, S. 131.

240. The City Treasurer and the Accountant of the Water and Light Department of The City of Moncton, may, and they are hereby authorized and required when any moneys shall be payable by virtue of an order or cheque of the City Council to any person who is indebted to The City of

Moncton for rent, or for rates and taxes, or for water rates, or for any special rate for any public work imposed upon him in such City, to retain in their hands and set off against any sum or sums so payable by cheque or order of the City Council through them, the amount of the rates and taxes, or rent, or water rates or special rate on the property of such person, and the City Treasurer or the Accountant of the Water and Light Department, as the case may be, shall forthwith appropriate and credit to the proper account or accounts all money retained, set off and realized by them under the authority conferred by this Section. 1951, C. 89, S. 22.

241. The City of Moncton is hereby authorized and empowered to purchase or lease certain suitable land or lands for the purposes of a park or parks, or park improvements, provided, however, that no agreement or agreements for the purchase of any lands for park purposes shall take effect until such agreement or agreements shall be submitted to the ratepayers of the said City, under Section 198 of this Act, except as provided in Section 241A. 1953, C. 69, S. 8.

241A The City of Moncton is hereby authorized and empowered to operate an ice skating building, public athletic, amusement or recreational centres and to regulate and control the same, including evictions therefrom, by by-law or otherwise; to enter into contracts with shows, carnivals, sport teams and others and to expend such funds as may be voted or provided for such purposes by the City Council. 1949, C. 120, S. 17.

241B The City of Moncton is hereby authorized and empowered by resolution of the City Council to purchase or acquire all or any of the marsh or bottom lands and marginal slopes along Jonathan Creek in the City of Moncton, County of Westmorland and Province of New Brunswick and elsewhere for the development and maintenance of a lake, park or playground and do all things necessary to effect such objects or any of them. 1954, C. 152, S. 17.

242. It shall be lawful for the City Council of the City of Moncton from time to time to vote such amounts as it may deem advisable in aid of the following organizations, namely: The Moncton Branch of the Canadian Legion of the British Empire Service League; Child Welfare Association; Victorian Order of Nurses; Moncton Chapter, New Brunswick Association of Registered Nurses; Council for Cerebral Palsy and Mentally Retarded Children, Inc.; Moncton Art Society; Ladies' Aid of the Moncton Hospital; Moncton Salvage Corps and Fire Police; Moncton Firemen's Association and Travellers' Aid of the Y. W. C. A.; The Moncton Hospital, The Hotel Dieu de L'Assomption Hospital of Moncton; The Sackville Memorial Hospital; The Moncton Junior Chamber of Commerce and The Moncton Board of Trade; the Salvation Army; the C.N.I.B.; N. B. Protestant Orphanage; Canadian Red Cross; Moncton Boys Club and Playtime Projects Ltd., and also to make grants or spend money in providing out-of-door skating rinks and play grounds and for band concerts, and animal rescue purposes, which said grants, or any of them, the City is hereby authorized to make. 1954, C. 152, S. 18.

243. Whenever by this Act authority is given to the City Council of the City of Moncton to grant licenses and no authority is given to impose or collect a license fee therewith, the said Council shall have authority to impose and collect such license fee as it may see fit to impose. 1890, C. 60, S. 148.

244. It shall be lawful for the City of Moncton, and the said City is hereby authorized and empowered by and through its City Council, and by a majority vote of all the members thereof, upon securing an affirmative vote in a plebiscite conducted on the question, to carry on, conduct and operate a bus passenger transportation system within the City, and to purchase, lease or otherwise acquire such real and personal property as it may deem necessary for such purpose.

245. Nothing in any Act or Acts contained authorizing the City Council of the City of Moncton to give a fixed valuation upon any property or properties for assessment purposes shall be construed to apply to or permit the said Council to give a fixed valuation for school taxes or county rates, and all

taxes or rates which have been levied and assessed for school and county purposes upon any and all such properties are hereby declared good and valid. 1916, C. 82, S. 29.

246. (1) Every person guilty of an offence against this Act or any by-law passed under the authority of this Act for which no penalty has been specially provided shall be liable on summary conviction to a penalty not exceeding \$200 and not less than \$20.00 (1960, C.126)

(2) In default of payment of any penalty imposed on any person under the provisions of this Act such person shall be liable to imprisonment for a term not exceeding twenty days.

247. The City Council of the City of Moncton may pass by-laws for selling, leasing or otherwise disposing of property, both real and personal, no longer required for municipal purposes. (1963)

248. Where power to acquire land is conferred upon the City of Moncton by this or any other Act, un otherwise expressly provided, it shall include the power to acquire by purchase or otherwise and to enter on and expropriate.

249. When the City Council shall by resolution to proceed with the acquisition of property and cannot agree with the owner or owners thereof or terms of purchase or settlement, or whenever the owner or owners are incapacitated from conveying the same and giving a good release, or whenever owner or owners cannot be found with due diligence, or are unknown, the City Council by its servants or agents, may enter upon such lands and premises or any portion thereof and make a survey and measurements thereof and ascertain the boundaries and make any borings or excavations therein.

250. After the City Council has decided to proceed with the acquisition of such lands and premises any part thereof, it may by further resolution set forth the metes and bounds of such lands and premises proposed to be taken and declare that the takes and appropriates for the purposes of the City such lands and premises so laid off by metes and bounds and thereupon the City Council shall file in the Office of the Registrar of Deeds for the County in which the lands and premises are situated two copies of such resolutions, certified by the City Clerk, with a description of the lands and premises so taken, and upon the filing of such resolution and description as aforesaid the lands and premises shall vest absolutely in the City free from encumbrances. Notice of such expropriation containing a brief description of the lands and premises sufficient to identify the same shall be published in a newspaper published in the County of Westmorland or having a general circulation in the County.

251. (1) An owner whose interest in land has been expropriated is entitled to compensation from the City on filing a claim therefor and presenting satisfactory proof of title.

(2) Where the Council is unable to agree with an owner as to the amount of compensation payable under subsection (1), the Council shall tender what it considers a reasonable amount with a notice that if the offer is not accepted within thirty days, the question will be submitted to arbitration, and if such offer is not accepted within thirty days, the amount of compensation shall be settled by arbitration under the Arbitration Act.

(1965)