

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1838. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1838.

1 Victoria – Chapter 7

An Act to provide for the better assessment of County and Parish Rates. Passed 9th March 1838.

Whereas by the Laws now in force for the assessment of rates for public charges, the assessors in the several Towns and Parishes are authorised to apportion the sums to be levied upon the said Towns and Parishes respectively, among the inhabitants thereof, in such manner as they in their discretion shall think just and reasonable: And whereas the exercise of such discretion without regulation or appeal, has been productive of great dissimilarity in the mode of assessing, and of much confusion throughout the Province;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, all sums of money to be assessed and raised for County or Town or Parish charges or expenses, under and by virtue of any Act or Acts of the General Assembly for that purpose made or to be made, shall be assessed, levied and raised by an equal rate upon the Poll of all male inhabitants of the Town or Parish, of the age of twenty one years and upwards, not being paupers, and by a rate, in just and equal proportion, upon the real property situate within such Town or Parish, and upon the personal property and incomes of the inhabitants thereof, according to the best knowledge and discretion of such assessors, subject nevertheless to the provisions and regulations hereinafter contained: Provided always, that not more than one eighth part of the whole rate be assessed, levied and raised by a Poll rate.

II. And be it enacted, That in the interpretation of this Act, the terms "Real Estate," and "Real Property," shall be construed to include land, and any buildings and other things erected on or affixed to land; and the terms "personal estate," and "personal property," shall be construed to include all goods, chattels, monies and effects, and all debts due from solvent debtors, whether on account, contract, promissory note, bond or mortgage, and all public stocks or securities, and all stocks or shares in Joint Stock Banking or Insurance Corporations or Companies.

III. And be it enacted, That in cases of mortgaged Real Estate, the mortgagor shall for the purpose of assessment be deemed to be the owner until the mortgagee shall have taken possession, after which the mortgagee shall be deemed to be the owner.

IV. And be it enacted, That it shall be the duty of the assessors, without delay, after receiving their warrants of assessment as by Law directed, to meet at an appointed time and place to be agreed upon, and they or the major part of them shall make out a list with columns therein—the first or left hand column to contain the names of such persons as are ratable within the Parish, both resident and non-resident—the second column to contain the amount of Poll Tax to be paid by each inhabitant liable to pay a Poll Tax—the third column to contain the amount of real property within the Parish owned by each inhabitant—the fourth column to contain the amount of the personal property of each inhabitant—the fifth column to contain the value of the real estate of

non-residents—the sixth column to contain the annual income of such male inhabitants as may derive income from any place, profession or employment within this Province, not being from real or personal property—the seventh column to contain twenty per cent, of the before mentioned value of real and personal estates—the eighth column to contain the said sums so reduced to twenty per cent, and the said sums of annual income —and when any inhabitant has both annual income and twenty per cent, of the value of property set opposite his name, in the said sixth and seventh columns, such sums shall be added together and set in the eighth column, and the amount so to be raised and assessed, after deducting the whole amount of poll tax therefrom, shall be apportioned among the several persons so named, in exact proportion to the sums in the eighth column, set opposite to their respective names—the ninth and last column shall contain the several sums so apportioned, with the addition of the poll tax of each person liable to pay a poll tax, and shall be denominated “Total Assessment;” the same to be in the form following (that is to say):

Assessment of the Town or Parish of _____ (or district of the same as the case may be,) in the County of _____ in pursuance of a Warrant of the General Sessions of the Peace for the said County of _____, to levy the sum of _____, for _____.

Dated the _____ day of _____ A.D. 18 ____.

Names of Persons	Poll Tax	Real Estate (with- In the Parish) of Inhabitants			Personal Estates of Inhabitants		Real Estate of non-residents		Annual Incomes			20 per cent of value of Property			Amount to be taxed		Total Assessment				
		£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.		
A.B.	d.	200	0	0	100	0	0	d.	0	0	0	60	0	0	d.	1	5	4			
C.D.	1 4	300	0	0	100	0	0	0	0	0	50	0	80	0	0	60	0	0	2	13	4
E.F.	1 4	0	0	0	0	0	0	0	0	0	0	40	0	0	130	0	0	0	16	0	0
G.H.	0 0	0	0	0	0	0	0	200	0	0	0	0	0	0	0	0	0	0	0	9	4
I.K.	1 4	0	0	0	0	0	0	0	0	0	20	0	0	0	0	40	0	0	0	1	4
	1 4							0	0	0	0	0	0	0	20	0	0	0			
															0	0	0	0			

And the said assessors shall within sixty days deliver to the several Collectors of rates within the respective Towns or Parishes, lists made out in form aforesaid, and containing the names of all persons rated within the several and respective districts to which the said Collectors may have been appointed; such lists being signed by the said respective assessors, and having endorsed thereon a precept under their hands, in the form following, (that is to say):

“To A. B. one of the Collectors of Rates in the Town or Parish of _____ or to any other Collector of Rates in the Town or Parish of _____.”

“You are hereby required forthwith to collect from the several persons named in the annexed assessment the sums set against their names respectively, under the last column thereof, intituled “Total Assessment,” amounting in the whole to the sum of _____ and to pay the same when collected into the hands of County Treasurer (or Overseer of the Poor, or otherwise as the case may be).

“Given under our hands, the _____ day of _____ in the year of our Lord one thousand eight hundred and _____.

And further it shall be the duty of the said assessors to make out a duplicate of all and every of their respective assessments and to transmit the same, together with the warrant of assessment, within ten days after the assessment is completed, to the Clerks of the Peace of their respective Counties, to be filed of record; and if any assessor shall neglect or omit to perform the duty herein required of him, he shall be liable to the penalty of ten pounds; and the provisions in this section contained shall be deemed and taken to be in lieu of the provisions of the second section of an Act passed in the seventh year of the reign of King William the Fourth, intituled “An Act to provide for the collection of County and Parish rates.”

V. And be it enacted, That if any person liable to be assessed as an inhabitant of a Parish, shall at any time before the assessors shall have completed their assessment furnish such assessors with an account in writing of his real property situate within the Parish, and of his personal property and income, and shall specify in such account the value of such real property, and the amount of his income, and the amount of his personal property, according to the specification of personal property in the second section of this Act, after deducting therefrom the just debts which he may owe to other persons, and shall have made oath before a Justice of the Peace that such account is just and true, and that the value and amount of such real and personal property and income respectively, do not exceed the sums specified in such account, it shall be the duty of the assessors to value such real and personal property and income at the sums respectively specified in such account and no more; and in like manner if any person liable to be assessed as a nonresident owner of any real property lying within the Parish, or the Agent of such person so liable to be assessed as a non-resident owner, shall furnish the assessors with a like account of such real property, and shall have made oath that the value thereof does not exceed the sum specified in the account, it shall be the duty of the assessors to value such real property at the sum specified in such account and no more.

VI. And in order that there may be sufficient opportunity for persons liable to assessment to furnish the assessors with statements of their property and income, if they shall think fit; Be it enacted, That the assessors forthwith after receiving any warrant of assessment, shall cause public notice thereof to be given, by posting up notices in at least three of the most public places within the Parish, and also by publishing such notice in one or more public newspapers, if there be any such newspapers published within the Parish.

VII. And be it enacted, That when the owner of any real property assessed within any Parish as the estate of a non-resident, shall reside within the County of which such Parish forms a part, the Collector of taxes for the place where the assessment is made, shall proceed to collect and recover the rate or assessment from such owner, in the manner directed for collecting and recovering rates from inhabitants of Parishes in the said recited Act passed in the seventh year of the reign of King William the Fourth, intituled “An Act to provide for the collection of County and Parish rates.”

VIII. And be it enacted, That when the owner of any real property assessed within any Parish as the estate of a non-resident, shall not reside within the County of which the Parish forms a part, the Collector of taxes for the place where the assessment is made, may sue for the rate or assessment in an action of debt or assumpsit in any Court having jurisdiction to the amount thereof, in his own name, in like manner as for his own proper debt, and in such action an extract from the assessment, shewing the rate or assessment of the person so sued, certified by the Clerk of the Peace with whom the assessment is filed, shall be conclusive evidence of such rate or assessment, or such Collector may proceed to obtain payment of the rate or assessment of such non-resident in the following manner, (that is to say,) if such non-resident owner, or some one on his behalf, doth not appear to pay such rate or assessment, the Collector shall, as soon as may be, cause public notice to be given of such rate and assessment, by advertisement in one public newspaper published in the County where the real property lies, or in the Royal Gazette published by the Queen's Printer, if there be no such newspaper published in such County, or if the assessment be in the County of York, which advertisement shall be continued for three months, unless some person shall within that time appear and pay to the Collector such rate or assessment and the charges of advertising the same; and in case no person shall so appear within that time and pay such rate or assessment, it shall and may be lawful for any two Justices of the Peace in the County where the real property lies, on the application of such Collector, by warrant under their hands and seals, to order the Sheriff of the County to sell at public auction to the highest bidder, (first giving thirty days notice of such sale in the manner before mentioned,) so much of the said real property as may in his judgment be sufficient to pay such rate or assessment, with all the costs and charges attending the recovery of the same, retaining the overplus, if any, for the use of such owner; and the said Sheriff is hereby empowered and directed to execute a deed to the purchaser thereof, his heirs and assigns, and to deliver seizin and possession of the same to such purchaser.

IX. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to render liable to taxation the real or personal property of the Corporation of the City of Saint John, or of any religious, literary or charitable corporation, society or institution, or of any Joint Stock Banking or Insurance Corporation or Company.

X. And be it enacted, That the real and personal property of all Joint Stock Corporations (Banking and Insurance Corporations excepted) shall be liable to taxation under this Act in like manner as the real and personal property of individuals; and for the purposes of taxation under this Act, the President or any Agent or Manager of any such Joint Stock Corporation shall be deemed to be the owner of the real and personal property of such Corporation, and shall be dealt with, and may be proceeded against accordingly; and the principal place of carrying on the business and operations of any such Corporation, shall be deemed to be the place of inhabitancy of such Corporation: Provided always, that such President, Agent or Manager shall, in regard to the real and personal property of such Corporation, be taxed separately and distinctly from any other tax or assessment to which he may be liable, and may charge against and recover from such Corporation the amount of any tax or assessment which he may have been required to pay on account of such Corporation, under the provisions of this Act.

XI. And be it enacted, That any person thinking himself aggrieved and overrated either with regard to property or income, may appeal to the Justices of the Peace for the County at their next General Sessions after he shall have had notice of such assessment; and the said Justices shall examine into the appeal, and if the same shall be supported to their satisfaction, give such relief as they may think just, either by directing the sum over-rated not to be collected, or if collected and paid to be repaid, or else that such person shall be allowed the sum so over-rated in any future assessment of his property or income.

XII. And whereas by reason of the boundary lines of many of the Parishes in the Province not having been run, and it being therefore uncertain in what Parish many lots of land lie, Be it enacted, That such lands shall in every respect be considered as a part of the Parish in which the occupiers thereof have performed the statute labour on the highways, until the true boundaries are ascertained, and shall be assessed accordingly.

XIII. And be it enacted, That this Act shall continue and be in force until the first day of April which will be in the year of our-Lord one thousand eight hundred and forty.