

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1846. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1846.

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An Act further to facilitate the means of supplying the City of Saint John with Water, and for the more effectual prevention and extinguishment of Fires within the said City. Passed 14th April 1846.

Whereas the incorporation of the Saint John Water Company has been highly beneficial to the Public, and the abundant supply of Water gratuitously furnished by the said Company for the extinguishment of the calamitous Fires which have so frequently happened within the said City, has, under Divine Providence, been the means of preserving the said City from almost total destruction and ruin: And whereas it is deemed just and reasonable that all properties fronting upon all Streets, Lanes, Squares, Highways and Alleys wherein Mains are already established, or hereafter may so be, should in future be made liable to contribution by assessment, towards the charges and expenses of establishing, upholding and preserving works so highly important, as well to the health and comfort of the Citizens, as to the protection and preservation of property within the said City;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That all Stores, Houses, Out Houses, and Buildings of every nature, kind and description, and Water Lots fronting upon all Streets, Lanes, Squares, Highways, Alleys and Wharves in the said City of Saint John, as well wherein are now placed the Mains of the said Saint John Water Company, as also wherein the same may from time to time hereafter be placed, shall be deemed and taken and are hereby declared to be subject and liable to a rate or assessment of four pence per running foot front, for each and every year during the continuance of this Act, to be paid to the Collector for the time being of such rate or assessment, for the benefit of the said Saint John Water Company, by the owner or owners of such vacant Lands and Water Lots, and by the owner or owners of such Stores, Houses, Out Houses and Buildings respectively; and the owner of such Stores, Houses, Out Houses and Buildings shall be deemed and taken, and they are hereby declared to be subject and liable to the payment of the said rate or assessment of four pence per running foot front as aforesaid, of such Stores, Houses, Out Houses and Buildings, as also for each and every foot front of Lands, not built upon, thereunto respectively belonging or therewith used, occupied or enjoyed, whether such Lands be used for the purposes of a road way, passage, alley way, lane, yard, garden, or otherwise howsoever, and whether the same be owned by the owner or owners of such Stores, Houses, Out Houses and Buildings respectively, or not, any thing herein contained to the contrary notwithstanding: provided always, and be it enacted, that all Corner Lots, Stores, Houses, Out Houses and Buildings, and the Lands, not built upon, thereunto respectively belonging as aforesaid, having fronts on any two or more Streets or Wharves, wherein such Mains now are or hereafter may be placed, shall be rated or assessed for only one half the number of feet front upon such Streets and Wharves; and further provided, that all Public Squares and Burying Grounds, and also all Lands whereon now are or hereafter may be built Public Buildings and places of Public Worship, together with all such Public Buildings and places of Public Worship,

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are hereby declared to be free and exempt from the rate or assessment imposed by this Act; and further provided, that nothing herein contained shall subject any House, Out House or Building to any rate or assessment under this Act, unless a Main of the said Company now is placed in operation in front of or running past the same, or until a Main as aforesaid shall be placed and in operation in front of and passing the same; and further provided, that the Houses, Stores and Buildings fronting on Brussels Street shall be exempted from any rate under this Act.

II. And be it enacted, That the Mayor, Aldermen and Commonalty of the City of Saint John, in Common Council assembled, shall and may, and they are hereby required, on or before the first day of July in each and every year, during the continuance of this Act, by Warrant under the Common Seal of the said City, to nominate and appoint one fit and proper person to collect the rate or assessment hereby ordered, and to demand and receive of and from such person so nominated, before the delivery unto him of the Warrant aforesaid, a Bond or Obligation payable unto the said Saint John Water Company, their Successors or Assigns, with two good and sufficient Sureties, in such penal sum as the said Mayor, Aldermen and Commonalty, in Common Council assembled, may deem reasonable and proper, conditioned for the due and faithful discharge of his duty as such Collector; and for the due and faithful payment by him, the said Collector, to the President or Treasurer of the said Saint John Water Company for the time being, or to whomsoever the said Saint John Water Company may from time to time in that behalf direct, (first deducting his charge for collecting the same,) of all such sum and sums of money as may come into his hands, or into the hands of any other person or persons for him as such Collector, within the time after the receipt and collection of the same hereinafter set forth, which Bond or Obligation, immediately upon being executed by such Collector and his Sureties, as aforesaid, shall be delivered by the Mayor to the said Saint John Water Company; and in case of the death, sickness, absence or resignation of the said Collector, or his dismissal from office by the said Mayor, Aldermen and Commonalty, in Common Council assembled, (for which full power and absolute authority is hereby to them given,) on complaint of and proof of any default, negligence or impropriety in the discharge of his duties as such Collector, then, and in every such case, it shall and may be lawful for the said Mayor, Aldermen and Commonalty, in Common Council assembled, and they are hereby required forthwith to appoint another fit and competent person in his room and stead, and to require and receive from such person the like security, to be in like manner disposed of, and so as often as such case shall happen.

III. And be it enacted, That if the said Mayor, Aldermen and Commonalty of the said City of Saint John, shall neglect or refuse to appoint such Collector on or before the first day of July in each and every year during the continuance of this Act, or any or either of them, as they are hereinbefore in that respect directed, then, and in every such case, it shall and may be lawful to and for the President and Directors of the said Saint John Water Company for the time being, and they are hereby authorized and empowered, immediately after such neglect or refusal, to nominate and appoint such Collector under the seal of the said Saint John Water Company, and take Bonds with sufficient sureties for the faithful discharge of his duties as such Collector, with the like power and authority to the said President and Directors, as is hereinbefore in that behalf given to the said Mayor, Aldermen and Commonalty, to appoint others in his room and stead, in case of his neglect or refusal, his death, sickness or resignation, or his dismissal from Office by the President and

Directors of the said Saint John Water Company, on complaint and proof of default, negligence or impropriety in the discharge of his duties as such Collector, as often as any such case shall happen; the said President and Directors of the said Saint John Water Company giving to the said Mayor, Aldermen and Commonalty, in Common Council assembled, immediate notice of every such appointment, and publishing the same in two or more of the Newspapers published in the said City of Saint John, for at least fifteen days; which Collector so appointed by the said President and Directors of the said Saint John Water Company from time to time, is hereby authorized and empowered to demand, recover and receive the rate or assessment hereby imposed, and in case of neglect or refusal by any person or persons to pay his, her or their assessment, to proceed for the recovery thereof in every respect as fully and effectually, to all intents and purposes, as if such Collector were appointed and authorized by the said Mayor, Aldermen and Commonalty, in Common Council assembled, under the Common Seal of the said City.

IV. And be it enacted, That it shall and may be the duty of the said Saint John Water Company, and they are hereby required on or before the said first day of July in each and every year, during the continuance of this Act, to prepare from the best information they can ascertain, a list or schedule of all Water Lots, Stores, Houses, Out Houses and Buildings, liable to the said rate or assessment under and by virtue of this Act, with the names of the owners thereof respectively, so far as the same can be ascertained, and shall cause to be delivered unto every such Collector, immediately on his appointment, as hereinbefore is provided for, a correct copy thereof, under the Seal of the said Saint John Water Company, for his information in collecting the assessment or rate imposed by this Act; and that it shall be the duty of such Collector, immediately after the receipt of the said warrant or appointment and schedule aforesaid, to demand and receive the several sums of money in the said schedule contained, of and from the owner and owners respectively of the Lands, Water Lots, Houses, Out Houses, Stores and Buildings therein set forth, and shall on the first Monday in each and every month, pay over unto the President or Treasurer of the said Saint John Water Company, or unto whomsoever the said Saint John Water Company may from time to time in that behalf direct, the several sums of money which may have been received by such Collector during the preceding month, (first deducting therefrom at and after the rate of six per centum for collecting the same,) together with a list under his hand of the persons from whom, and the Lands, Water Lots, or Houses, on account of which the same may have been received; and upon the neglect or refusal of any person or persons to pay over the respective amounts of his, her or their assessment, the said Collector, within thirty days after demand made upon such owner or owners, or their representatives respectively, or the tenant or tenants of such owner or owners, shall proceed against such owner or owners so neglecting or refusing, according to the powers herein given to the said Collector, and also within six calendar months after the receipt of the warrant or appointment for collecting such assessment, shall render to the President of the said Saint John Water Company, under oath, a full and true account of all and every sum and sums of money, which may have been received by him on account of the said assessment, and also a correct list of all defaulters, and the Lands, Water Lots and Houses respectively, upon which such default shall have been made.

V. And be it enacted, That in case of the neglect or refusal of the owner or owners, or their representatives respectively, or the tenant or tenants of such owner or owners of all Water Lots,

Stores, Houses, Oat Houses and Buildings assessed under and by virtue of this Act, to pay the amount of such assessment for the space of ten days after demand of such assessment by the Collector thereof made, it shall be the duty of such Collector to make application to any Justice of the Peace of the City and County of Saint John, which Justice is hereby required, upon complaint made to him under oath by such Collector, that the amount of assessment has not been paid, and that demand has been duly made, to issue warrant of distress and execution against the party complained of, in the form following, that is to say:

Saint John, ss. To any Constable of the City of Saint John.

You are hereby commanded to levy of the goods and chattels of _____, within the said City, the sum of _____ which sum is the amount assessed upon _____, as owner of [the premises assessed,] and also _____ costs, amounting in the whole to _____, besides costs of levying this Execution, and have that money before me at my Office, on the _____ day of _____, to be rendered to _____, Collector of the rate assessed under the provisions of an Act of the General Assembly of this Province, intituled *An Act farther to facilitate the means of supplying the City of Saint John with Water, and for the more effectual prevention and extinguishment of Fires within the said City*; and for want of sufficient goods and chattels whereon to levy, you will take the body of the said _____ and deliver to the Keeper of the Gaol of the said City and County, and the said Keeper will take the said _____ and safely keep for _____ days, unless the said _____ and costs be sooner paid; and when you shall have executed this precept, make return to me at the day and place aforesaid. Given under my hand this _____ day of _____ 184_____.

Justice of Peace.

And the Constable to whom any Execution as aforesaid shall be delivered, shall forthwith proceed to levy the same, in the like manner as is provided for the levying Executions, in an Act made and passed in the fourth year of the Reign of King William the Fourth, intituled *An Act to regulate proceedings before Justices of the Peace in Civil Suits*.

VI. And be it enacted, That the owner or owners, occupier or occupiers, tenant or tenants of all Stores, Houses, Out Houses and Buildings, hereby made liable to the said assessment or rate, who now are, or hereafter shall become tenants of the said Saint John Water Company, by receiving into such Stores, Houses, Out Houses or Buildings, a supply of water, shall be entitled to a reduction in the rent charged by the said Company, to the extent of the said assessment, of four pence per foot of such premises so supplied, for each and every year he, she or they may continue the tenants of the said Company; and that payment by any one of the tenants or occupiers of any Water Lot, or any Store, House, Out House or Buildings liable to assessment under and by virtue of this Act, of such sum of money as is hereby assessed upon the same respectively, shall be deemed and taken to be payment of the rate or sum so assessed; and every such payment shall be deemed and taken as between the person and persons entitled to receive rent for such Water Lot, Store, House, Out House and Building, and the tenant or occupier so paying, to have been paid on account of the rent to which such tenant or occupier may be liable, at the end of the quarter or

term during which such payment may be made, by virtue of any lease, demise, contract, custom, agreement, or otherwise howsoever.

VII. And be it enacted, That the said Saint John Water Company shall and will, during the continuance of this Act, at their own proper costs and charges, place and establish Fire Plugs for supplying water whenever fires shall happen in the said City, or vicinity thereof, at such distances from each other along the Mains now placed, or hereafter to be placed, as the Mayor, Aldermen and Commonalty of the said City, in Common Council convened, shall from time to time direct and appoint; and all Fire Plugs now established, or hereafter so to be, shall and will, at their own proper costs and charges, during the continuance of this Act, keep and maintain in good and sufficient serviceable order, free of all costs, charges and expenses to the said City.

VIII. And be it enacted, That any person or persons thinking himself, herself or themselves aggrieved or overrated by any rate of assessment to be made by virtue of this Act, within six days after the demand thereof made as aforesaid, may appeal to any two Justices of the Peace of the said City and County of Saint John, who are hereby empowered and required to examine into the appeal, and if the same shall be supported to their satisfaction, they shall give such relief as they may think just, either by directing the sum overrated not to be collected, or if collected and paid, to be repaid, or else such person or persons shall be allowed the sum so overrated in any future assessment to be collected under the provisions of this Act.

IX. And be it enacted, That five of the Directors of the said Saint John Water Company shall constitute a Board for the transaction of business, of which the President shall always be one, except in cases of sickness or necessary absence; and in every such case, the Directors then present shall choose one of their Board as Chairman in his stead, and that the President or Chairman shall vote at the Board as a Director, and in case of there being an equal number of votes for and against any question before the Board, the President or Chairman shall have a casting vote, any Laws heretofore made and passed to the contrary notwithstanding.

X. And be it enacted, That if any action or suit shall be commenced against any person or persons for any thing that shall be done in pursuance of or by the authority of this present Act, in every such case the action or suit shall be commenced within three calender months next after the fact committed, and not afterwards, and shall be laid and brought in the City and County of Saint John, except in cases where the Court shall otherwise order, and not elsewhere; and the Defendant or Defendants in such action or suit to be brought, shall and may plead the general issue, and give this Act and the special matters in evidence, at any trial to be had thereupon, and that the same was done in pursuance, and by the authority of this Act, and if it shall appear so to be done, or that such action or actions shall be brought after the time before limited for bringing the same as aforesaid, or shall be brought in any other County or place, that then the Jury shall find for the Defendant or Defendants.

XI. And be it enacted, That this Act shall continue and be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and fifty, and no longer: provided

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always, that nothing in this section contained shall be construed to prevent the recovery of all and every the rates or assessments imposed by this Act.