

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1848. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1848.

11 Victoria – Chapter 13

An Act more effectually to provide for the support of a Nightly Watch and Day Police in that part of the City of Saint John lying on the eastern side of the Harbour of Saint John, and for lighting the same, as also for other purposes. Passed 30th March 1848.

Whereas the establishment of a Nightly Watch and Day Police, the lighting of the Streets, and the appointment of Scavengers in and for that part of the City of Saint John lying on the eastern side of the Harbour, are of very great importance, and necessary for the preserving of the peace and good order in the said City;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, it shall and may be lawful for the Mayor, Aldermen and Commonalty of the said City, in Common Council convened, from time to time to order and appoint such number of Watchmen and Policemen as they shall judge necessary and proper to be employed in that part of the City lying on the eastern side of the Harbour, and to direct how they shall be armed, dressed and appointed, and what wages shall be paid to them, and generally direct them in the performance of their duty as such Watchmen and Policemen; and shall also appoint such number of Scavengers as they shall judge necessary and proper to be employed on the eastern side of the Harbour, in the said City, and to direct them in their duties in maintaining cleanliness and good order in the Streets of the said City, and what wages shall be given to such Scavengers; and that the said Mayor, Aldermen and Commonalty, in Common Council convened, shall and may make all such other orders and regulations for the ordering of the said Watchmen, Policemen, and Scavengers, as the nature of each particular service may require.

II. And be it enacted, That the Mayor, Aldermen and Commonalty of the said City, in Common Council convened, shall and may, and they are hereby authorized to make agreements, employ Lamplighters, and adopt such other measures as may be necessary for the lighting of that part of the said City on the eastern side of the Harbour, and for the raising and levying the money for paying the said Watchmen, and Policemen, and Scavengers, and for lighting that part of the said City as aforesaid, and other charges incident thereto.

III. Be it enacted, That the Mayor, Aldermen and Commonalty of the City of Saint John, in Common Council convened, may and they are hereby authorized and empowered once in every year between the first day of April and the first day of May in every year, to determine and direct what sum of money shall be raised and levied in that part of the City lying on the eastern side of the Harbour, and the inhabitants thereof, for the purposes of this Act, and to direct, by Warrant under their Common Seal, the Assessors hereinafter named, to make a rate and assessment in the manner hereinafter provided of such sums; and that the said sums of money shall be assessed, levied and raised by an equal rate upon the poll of all male inhabitants of the said part of the said City lying on the eastern side of the Harbour, 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 the said part of the said City, lying on the eastern side of the Harbour, and upon the personal property and incomes of the inhabitants thereof, according to the best knowledge and discretion of the Assessors hereinafter named, and subject to the provisions and regulations hereinafter mentioned, and that one fourth part of the whole of such rate, for any one year, shall be assessed, levied and raised by a Poll rate.

IV. 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.

V. And be it enacted, That in cases of mortgaged real estate the mortgagor shall for the purposes 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.

VI. And be it enacted, That it shall be the duty of the Common Clerk of the said City, to make out such Warrants as aforesaid, and within fourteen days after the order of assessment to transmit such Warrants to the Assessors appointed under this Act, under the penalty of ten pounds for every neglect; and that it shall be the duty of the Assessors without delay after receiving their Warrants of assessment as herein 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 eastern part of the City, both resident and non-resident; the second to contain the amount of Poll Tax to be paid by each inhabitant liable to pay a Poll Tax under this Act; the third column to contain the amount of real property within the eastern part of the City 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 of the eastern part of the City, 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 centum 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 Poll Tax, and shall be denominated "Total Assessment;" the same to be in the form following, that is to say :—

Assessment of that part of the City of Saint John lying on the eastern side of the Harbour, in the City and County of Saint John, in pursuance of a Warrant of the Common Council of the said City, to levy the sum of ___ for the support of Watch, Lamps, Police and Scavengers.

Dated the ___ day of ___, A. D, 18 ___.

Names of Persons	Poll Tax.	Real Estate of Inhabitants	Personal Estate of Inhabitants	Real Estate of Non-residents.	Annual Income.	Twenty per cent of value of Property.	Amount to be Taxed.	Total Assessment.
A.B.	0 1 4	200 0 0	100 0 0	0 0 0	0 0 0	60 0 0	60 0 0	£1 5 4
C.D.	0 1 4	300 0 0	100 0 0	0 0 0	50 0 0	80 0 0	130 0 0	2 13 4
E.F.	0 1 4	0 0 0	0 0 0	200 0 0	0 0 0	40 0 0	40 0 0	0 16 0
G.H.	0 1 4	0 0 0	0 0 0	0 0 0	20 0 0	20 0 0	20 0 0	0 9 4
I.K.	0 1 4	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 1 4

And the said Assessors shall within sixty days deliver to the Collector of Rates within the said City, Lists made out in form aforesaid, and containing the names of all persons rated within the eastern part of the said City to which the said Collector may have been appointed, such list 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., Collector of Rates within the City of Saint John, or to any other Collector of Rates in the City of Saint John.

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 the Chamberlain or Treasurer of the said City. 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 Common Clerk of the said City, 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.

VII. And be it enacted, That if any person liable to be assessed as an inhabitant of the eastern part of the said City, 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 eastern part of the said City, 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 fourth 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 sum 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 property lying in the said part of the said City on the eastern side of the Harbour, shall furnish the Assessors with a like account of any real property, or the agent of such person so liable to be assessed as a non-resident owner shall furnish the Assessors with alike 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.

VIII. And in order that there may be sufficient opportunity for persons liable to assessment under this Act, 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 ten of the most public places on the eastern side of the Harbour within the said City, and also by publishing such notice in one or more of the City newspapers.

IX. And be it enacted, That when the owner of any real property on the eastern side of the Harbour assessed as the estate of a non-resident shall reside within the City and County of which such City forms a part, the Collector of Taxes for the said City shall proceed to collect and recover the rate or assessment from such owner in the manner hereinafter directed for collecting and recovering rates from any inhabitants of the said City.

X. And be it enacted, That when the owner of any real property situate on the eastern side of the Harbour assessed under this Act as the estate of a nonresident shall not reside within the City and County of which the said City forms a part, the Collector of Taxes 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 Common Clerk 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 said City, or in the Royal Gazette, published by the Queen's Printer; 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 said City, on the application of such Collector, by Warrant under their hands and seals, to order the Sheriff of the said City, or City and

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.

XI. 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.

XII. 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 purpose 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 Corporations, 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.

XIII. And be it enacted, That the said rate and assessment so to be made shall be collected by a Collector to be by the said Mayor, Aldermen and Commonalty of the said City from time to time appointed for that purpose; and that it shall be the duty of such Collector without delay after receipt of such assessment and precept to demand the several sums contained in the said list of the several persons therein named, and shall, if required, give a written statement of the several amounts assessed on each person.

XIV. And be it enacted, That if any person residing within the City and County of Saint John, assessed within the said City under this Act, shall refuse or neglect to pay the amount of his or her assessment by the space of ten days next after such demand as aforesaid, then and in such case it shall be the duty of the Collector of Taxes to make application to any Justice, which Justice is hereby required upon complaint made to him under oath by such Collector, that the amount assessed upon any person has not been paid as aforesaid, and that demands had been made as aforesaid, to issue a Warrant of Distress and Execution against the party complained of, in the form following:

City of Saint John, ss:

To any Constable of the City of Saint John.

You are hereby required to levy of the goods and chattels of A. B. within this City____, which sum has been assessed upon _____, and also _____ costs, amounting in the whole to _____, besides costs of levying this execution, and have the money before me at my office on the _____ day of _____, to be rendered to C. D., Collector of Taxes for the City of Saint John; for want of goods and chattels whereon to levy, you will take the body of the said A. B., and deliver to the Keeper of the Gaol of the said City and County, and the Keeper will take the said A. B., and him safely keep for ___ days, unless the said _____ and costs be sooner paid: and how you have executed this Precept, make return to me at the day and place aforesaid. Given under my hand this _____ day of _____, one thousand eight hundred and ____.

E. F., Justice of the Peace for the City and County of Saint John.

And the Constable to whom any execution as aforesaid shall be delivered, shall forthwith proceed to levy the same in the same 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*; provided always, that no person so committed to Gaol shall be liable to be detained more than one day for every two shillings of the amount assessed, and costs required by such execution to be levied, or more than fifty days in the whole, if the amount exceed five pounds; and every person so committed shall be entitled to his discharge at the expiration of such time; and provided further, that notwithstanding the discharge of the defendant as aforesaid, the judgment upon which such execution issued shall remain good against the property of the defendant, and a new execution may be issued against his property in like manner as if he had not been imprisoned.

XV. And be it enacted, That the Fees to be taken by Justices of the Peace shall be as follows:—

For every Affidavit of Collector, including the oath, one shilling;

For every Warrant of Distress, &c., nine pence;

And the Fees to Constables for serving each and every Warrant of Distress and Sale, the same as are now allowed to Constables under the Act to regulate proceedings before Justices in Civil Suits.

XVI. Provided always, and it is hereby enacted, That in case any person or persons shall think him, her or themselves aggrieved by any rate and assessment to be made as aforesaid, it shall and may be lawful for them respectively within the space of five days after the sum so rated and assessed shall be demanded, to appeal to the Common Council of the said City, whose decision shall be final and conclusive, and that a memorandum in writing of such appeal, filed in the Common Clerk's Office within the said time, shall suspend further proceedings until such decision shall be had.

XVII. Provided always, and be it enacted, That in case there should be any deficiency in any one year's assessment so to be made as aforesaid, so that the wages and allowance to Watchmen, Policemen, Lamplighters, and Scavengers, and the expense of lighting the eastern side of the said City, and every other incidental charge, cannot be fully satisfied, paid and discharged that year, such deficiency shall be made up in and paid out of the next succeeding year's rate and assessment; and if there shall happen to be any overplus money collected by such rate or assessment as aforesaid in any one year, such overplus shall be carried on to the credit of the account of the next year's rate and assessment, and shall be applied for such uses and in such manner as the rates and assessments collected are by this Act directed to be laid out and applied, and to no other use or purpose whatsoever.

XVIII. And be it enacted, That it shall and may be lawful for the said Mayor, Aldermen and Commonalty of the City of Saint John, to appoint annually three discreet persons, being freemen of the said City, to act as Assessors under this Act, who shall be sworn to the faithful discharge of such duty before the Mayor or Recorder of the said City; and any person so appointed, who shall neglect or refuse to accept the said appointment, or to become qualified, or having become qualified shall refuse to perform his duty, shall for each and every neglect or refusal, forfeit and pay the sum of five pounds, to be recovered on conviction before the Mayor or Recorder of the said City, and levied by distress and sale of the goods and chattels of the offender, by Warrant under the hand and seal of the said Mayor or Recorder, and paid into the hands of the Chamberlain of the said City, to be applied for such uses and in such manner as the rates and assessments collected under this Law, and for no other use whatsoever; and the said Mayor, Aldermen and Commonalty of the said City may appoint some other person or persons, being freemen, in the place or places of any person or persons refusing to act or to become qualified as required by this Act, so often as such shall be the case; which person or persons so to be appointed in the place or places of such person or persons so neglecting or refusing, shall be liable to the same and like penalties for neglect or refusal, as the said persons first appointed, to be in like manner recovered, paid and applied, and so on as often as the case may happen.

XIX. And be it enacted, that the said Collector hereinbefore mentioned to be appointed, shall from time to time as he shall receive the same, pay the money by him collected, into the hands of the Chamberlain of the said City for the time being, who is hereby directed to keep a separate Book of account of the same, to be by him appropriated for that particular purpose, and that the receipt of the Chamberlain shall be a sufficient discharge to the said Collector.

XX. And be it enacted, That it shall and may be lawful for the Mayor, Aldermen and Commonalty of the said City of Saint John, to erect and place upon a part of the space occupied by the building used for a Market in the Market Square in the said City, a Police Office, with proper apartments connected therewith.

XXI. And be it enacted, That the provisions contained in the fifth, sixth, seventh and thirteenth sections of an Act made and passed in the seventh year of the Reign of His Majesty William the Fourth, intituled *An Act to provide for the collection of County and Parish Rates*, shall be held to apply to and be in force in respect of any assessment ordered and made by the Mayor, Aldermen

and Commonalty of the City of Saint John, under this Act, and any proceedings taken under such assessment.

XXII. And be it enacted, That it shall and may be lawful for any Watchman, Policeman, Special Constable or Constable within the said City, to take into custody without Warrant, all night walkers, rogues, vagabonds, loose, idle and disorderly persons, whom he shall find disturbing the public Peace, (or whom he shall have just cause to suspect of having committed or being about to commit any felony, misdemeanor or breach of the Peace,) and all persons whom he shall find between the hours of nine o'clock P.M., and five o'clock A.M., during the months of March, April, May, June, July, August, September, and October, or between the hours of seven P.M., and six A.M., during the months of November, December, January, and February, lying or lurking in any highway, yard or other place, and not giving a satisfactory account of themselves; and also to take into custody without Warrant as aforesaid, any person who in the City aforesaid, shall be charged by any other person with committing any aggravated assault, in every case in which such Constable or other Officer shall have good reason to believe that such assault has been committed, although not within view of such Constable or Officer, 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 a Magistrate to be dealt with according to Law.

XXIII. And for the protection of persons acting in the execution of this Act and the Acts hereafter in this Section recited; Be it enacted, that all actions and prosecutions to be commenced against any person for any thing done in pursuance of, or in the execution of the powers and authorities under this Act, or an Act made and passed in the seventh year of the Reign of His late Majesty William the Fourth, intituled *An Act to provide for increasing the number of Constables in the City of Saint John, and for appointing Special Constables in the City and County of Saint John*; or an Act made and passed in the fifty sixth year of the Reign of George the Third, intituled *An Act to increase the number of Constables in the City of Saint John, or against any Constable or Marshal appointed under the provisions of the Charter of the City of Saint John*, shall be laid and tried in the County where the fact was committed, and shall be commenced within three calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this Act, and the said recited Acts, and the special matter in evidence at any trial to be had thereupon; and no plain tiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between Attorney and Client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial shall be had shall certify his approbation of the action, and of the verdict obtained thereupon.

XXIV. And be it enacted, That an Act made and passed in the fourth year of the Reign of His Majesty William the Fourth, intituled *An Act more effectually to provide for the support of a Nightly Watch in and for lighting the City of Saint John, and for other purposes*, and all Acts continuing the same, be and the same are hereby repealed, except as to any rates, assessments or taxes made or imposed, or penalties incurred under the said Acts; all which rates, assessments, taxes or penalties may be recovered in the same manner as if this Act had not been passed.

XXV. 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 three.