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22 Victoria – Chapter 37

**An Act relating to the levying, assessing, and collecting of Rates in the City of Saint John. Passed 13th April 1859.**

Section.

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Section.

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Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:---

1. The Mayor, Aldermen, and Commonalty of the City of Saint John, shall have power on or before the first day of April in each year, to determine and direct what sum of money shall be raised and levied in the City of Saint John, for the following purposes:—

The maintenance of the Police establishment on the eastern side of the Harbour:

For the scavenger work on the east side:

For lighting the Streets:

For making, repairing, altering, and improving the Streets, Squares, Bridges, and Highways, and the old Burying Ground, on the eastern side of the Harbour, not exceeding the sum of three thousand pounds:

For like purposes on the western side, not exceeding the sum of one thousand pounds:

For the maintenance of the Fire Department on the eastern side of the Harbour, including the erection and keeping in repair a sufficient number of proper Fire Hydrants, not exceeding the sum of one thousand five hundred pounds:

For the maintenance of the Fire Department on the western side of the Harbour, not exceeding five hundred pounds:

Which sums shall not be used or appropriated for any other than the purpose for which they are severally assessed.

2. Separate detailed estimates shall be made up by the Common Council of the said City, of the amount of money required for the above, or any other objects for which they may be authorized to levy an annual assessment, and approved of previous to their ordering any such assessment.
3. The Common Council shall annually in the month of March appoint a Board of three Assessors, not being members of the Common Council, or holding any office of emolument under the Government, and may at their discretion, at any time, remove any of them from office, and fill any vacancy that may occur during the year in such Board by death, removal from office, or otherwise.
4. The Common Council shall annually appoint a Clerk to the Board of Assessors, who shall hold his office during the pleasure of the Common Council.
5. The Assessors and the Clerk shall be severally sworn to the faithful discharge of their respective duties before the Mayor, Recorder, one of the Aldermen, or the Common Clerk.
6. Any person appointed an Assessor or Clerk as aforesaid, who shall neglect to serve and to become qualified, or having become qualified shall be guilty of any neglect of duty, shall forfeit and pay the sum of five pounds.
7. The Assessors shall make all assessments of City taxes and of County taxes chargeable on the City, and all Warrants of such Assessments shall be directed to them.
8. The Term 'City Taxes' shall be construed to mean all such rates and assessments as shall be imposed by the Common Council upon the City, or any district thereof, by virtue of any Act or Acts of Assembly; and the Term 'County Taxes' shall be construed to mean all such rates, taxes, and

assessments as shall be imposed by the Court of Sessions upon the City of Saint John, by virtue of any Act or Acts, for any public purpose of the City and County.

9. The Assessors shall forthwith after receiving their appointments, and becoming qualified, cause public notice of their appointment to be given, by posting up notices in at least six public places in the City, and also by publishing the same in two or more of the City Newspapers, in the following form:—

The undersigned having been appointed Assessors of Taxes for the City of Saint John, hereby give notice thereof, and that persons intending to furnish statements of their property and income, in pursuance of the provisions of The Saint John City Assessment Act of 1859, must do so within thirty days from the publication of this notice.— Dated this \_\_\_\_ day of \_\_\_\_\_ A. D. '

A. B.

C. D.

E. F.

10. After the publication of such notice, thirty days shall be allowed to any person to be rated, or his agent to furnish the Assessors with a written detailed statement tendered on oath made before a Justice, of his real estate within the City or District to be taxed, and of his personal estate and income, specifying therein the value of such real estate at its current market value, and the amount of his income, and the amount of his personal estate, after deducting from such personal estate the just debts which he may owe ; and the Assessors shall value the real and personal estate and income of the inhabitants, and the real estate of the non-residents, according to the respective statements so made to them, and verified as aforesaid, and no more.

11. The Assessors shall, without delay, after receiving any Warrant of Assessment, meet and enter in a Book to be provided at the public expense, the names of all persons to be rated in the said City, and shall distinguish therein in separate columns, the real estate, personal estate, and income of each person; and shall also make up and enter therein the total amount of City taxes for all purposes in one column, and the total amount of County taxes in another column.

12. All rates levied or imposed upon the said City, shall be raised by an equal rate upon the value of the real estate situate in the City or District to be taxed, and upon the personal estate of the inhabitants wherever the same may be, and also upon the amount of income or emolument derived from any office, place, occupation, profession, or employment whatsoever within the Province, and not from real or personal estate of the inhabitants of the said City, including persons made or declared to be residents or inhabitants by any Act or Acts of Assembly now or hereafter to be in force relating to the impositions of rates, and also upon the capital stock, income, or other thing of joint stock Companies or Corporations as hereinafter provided: For the purposes of this Act, the value of all real and personal estate and joint stock shall be deemed and taken to be, and shall be put down at one fifth of the actual worth thereof, as nearly as the same may be ascertained; provided always, that a portion of the assessment for making, repairing, altering, and improving the streets, squares, bridges, and highways, shall be raised by a tax of five shillings upon

the poll of all male inhabitants of the said City, of the age of twenty one years and upwards, not being in indigent circumstances.

13. 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 and taken to be the owner.

14. All joint stock Companies or Corporations shall be assessed under this Act in like manner as individuals; and for the purposes of such assessment, the President or any Agent or Manager of such joint stock Company or Corporation, shall be deemed to be owner of the real and personal estate, capital stock, and assets of such Company or 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 Company or Corporation, shall be deemed to be the place of inhabitancy of such Company or Corporation, and of such President, Agent, or Manager; and such President, Agent, or Manager, shall, in regard to the real and personal estate, income, or other thing of such Company or Corporation, be assessed separately and distinctly from any other assessment to which he may be liable ; and he may charge against and recover from such Company or Corporation, the amount of any assessment which he may be required to pay on account of such Company or Corporation under the provisions of this Act; provided that nothing in this Act shall render liable to such assessment the real or personal estate, income, or other thing of the City Corporation, or of any religious, charitable, or literary institution.

15. The Agent or Manager of any joint stock Company or Corporation established abroad, or out of the limits of this Province, who shall carry on business for such Company or Corporation in the City of Saint John, shall be rated and assessed in like manner as any inhabitant upon the amount of income received by him as such Agent; and for the purpose of enabling the Assessors to rate such Company or Corporation, the said Agent or Manager shall, when required in writing by the Assessors so to do, furnish to them a true and correct statement in writing, under oath, setting forth the whole amount of income received in the City of Saint John during the fiscal year [of said Companies] preceding the making up of the annual assessments: In the event of refusal on the part of such Agent or Manager to furnish the required information, the Assessors shall within ten days after such application therefor, rate and assess the said Agent or Manager according to the best of their knowledge, subject however to the right of the said Agent or Manager to appeal from such assessment as aforesaid: For the purposes of this Section, the Agent or Manager shall be deemed the owner of such income, and shall be dealt with accordingly, but he may recover from the Company or Corporation he represents any assessment he may be called upon to pay on such income as aforesaid; such assessment shall be made separately and distinctly from any other assessment to which such Agent or Manager shall be liable: Provided however, that the assessment on Insurance Companies, or the Agent or Manager of any Insurance Company established abroad, shall be taken on a three years' average of the yearly net profits on insurance of property situated within the said City, or for the whole period for which they may have been doing business in said City, not exceeding three years, such average to be obtained as follows: The Agents shall each year furnish the Assessors with a statement in writing of the aggregate net profits of insurance of property situated within the City, for the three years next preceding that in

which the assessment is to be made, or for the whole period for which they may have been doing business in said City, not exceeding three years; provided further, that Life Insurance Companies, or their Agencies, shall be free from assessment under this Act.

16. No stockholder of any joint stock Company or Corporation liable to be rated under this Act, shall be assessed in respect of any property in or income derived from such Company or Corporation.

17. The estate of deceased persons under control of their executors, administrators, or trustees, the separate property of married women, and the property of minors, or other property under the control of agents or trustees, may be rated in the name of the principal party or parties ostensibly exercising control over them, but under such description as will keep the rating separate and distinct from any assessment on such parties in respect of property held in their own right.

18. In this Act the term 'Real Estate' shall be deemed to signify land, and any buildings or other erections upon land, or any term or terms of years, or present beneficial and productive interest inland; and the term 'Personal Estate' shall be deemed to signify all goods, chattels, moneys, capital, and effects, and any share or interest therein, and all goods, debts, whether due upon accounts or upon any contract, promissory note, or bond and mortgage, and all public stocks and securities, and any share or interest therein, not being stock in any joint stock Company or Corporation within this Province.

19. In every assessment now or hereafter to be made, such assessment shall be deemed and taken to be legal, although the aggregate amount thereof shall exceed the sum so ordered to be assessed, provided such excess be not more than ten per centum on the sum so ordered.

20. Any person thinking himself aggrieved by any assessment for City taxes may appeal, by petition under oath made before a Justice, to the Assessors, who shall duly consider the same; and if they shall deem the party entitled to relief, the Assessors shall make such alteration in their assessment as to them shall appear to be just and right: In case the appellant be not satisfied with the decision of the Assessors, he may appeal to the Common Council, who may either affirm the first or the amended assessment, or otherwise deal with the matter, and their decision shall be final; provided that no such appeal shall be heard or received by the Common Council, unless the said petition, under oath, or a duplicate thereof, be filed in the Common Clerk's office within thirty days after the announcement of the assessment.

21. The Assessors and their Clerk shall have liberty to search the office of Register of Deeds for the City and County of Saint John, to ascertain the amount of property owned by any persons liable to assessment, and the Registrar shall receive for all searches from the Assessors connected with any one individual's property, the sum of one shilling, and no more; which sum so paid by the Assessors shall be allowed and repaid them in addition to any other allowance; provided that such Assessors and Clerk shall only be permitted to search between the time of their appointment and the making of the assessment.

22. If any person assessed shall not pay the amount for which he is liable, either on his own account or in a representative capacity, or if the personal or legal representative of any person assessed, in case of the death of such person before the payment of the assessment, shall not pay the amount of such assessment within ten days after such notice or demand, the Receiver of Taxes may make application to the Police Magistrate of the said City, and upon production of a Certificate purporting to be signed by the said Receiver, of the amount of the assessment, and that the same or any part thereof is due and unpaid, the Police Magistrate shall order and adjudge the person assessed, or his representative a» aforesaid, to pay the amount due; and thereupon execution with costs may be issued and levied against the goods and chattels, or against the body of the person adjudged to pay the said amount, with the same effect as any execution issued by the said Police Magistrate; provided that no person shall be imprisoned more than one day for every two shillings of the amount of the judgment.

23. When the person made liable to pay any assessment under this Act, shall not reside within the City and County of Saint John, the Receiver may sue for the same in his own name, before any Justice in any County where such person may reside; and the like certificate, as in a proceeding before the said Police Magistrate, shall be sufficient evidence of the assessment, and of the amount due thereon, and execution for such amount and costs shall be issued with the like effect as any execution out of a Justice's Court.

24. When the person made liable to pay any assessment, shall not reside within the limits of this Province, or his place of residence shall be unknown to the said Receiver, the Receiver shall cause public notice to be given of such rate and assessment, by advertisement in one or more of the public Newspapers published in the said City; which advertisement shall be continued for three months, unless some person shall within that time appear and pay to the said Receiver such rate and assessment, with the costs of the publication of such notice; and in case no person shall pay the same, it shall be lawful for the said Police Magistrate, on the application of the said Receiver, by warrant under his hand and seal, to order the Sheriff of the City and County of Saint John to sell at public auction, to the highest bidder, (first giving thirty days public notice of such sale,) so much of the real estate in respect of which such assessment shall have been made, 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 sell the same, and to execute a deed to the purchaser thereof, his heirs and assigns, and to deliver seizin and possession thereof; which deed shall pass all the right, title, and interest of the person assessed, of and in the property so sold.

25. The Receiver shall have power to collect all such City taxes and County taxes as may be outstanding and unsettled at the time of the passing of this Act, and may give the like notice in respect thereto, and take the same proceedings for the collection thereof, as herein provided for assessments made under this Act.

26. All penalties imposed by this Act may be recovered before the Police Magistrate 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 Police Magistrate as aforesaid, and paid into the hands of the Chamberlain for the use of the City Corporation.

27. This Act may at all times be referred to and designated as 'The Saint John City Assessment Act of 1859.'

28. All assessments which now are or may hereafter be required to be levied annually in the said City, shall be levied, assessed, and collected under the provisions and according to the principles of this Law, any thing in any Law now in force to the contrary notwithstanding.

29. That the Common Council be and are hereby authorized to make such bye laws and ordinances for the making, levying, and collecting of all assessments ordered by the Common Council, as they may from time to time deem necessary and expedient; and also be empowered to make bye laws for the government of the Assessors, their Clerk, and the Receiver of taxes, and to order and direct the mode in which they shall execute their duties, and to impose penalties for the enforcing thereof, not in any one case exceeding ten pounds; provided that no bye law or ordinance shall be repugnant to any part of the spirit and meaning of this Act.

30. So much or such parts of any Law now in force relating to levying, assessing, or collecting of Rates in the City of Saint John, as are inconsistent with this Act, are hereby repealed, except as to any thing done, pending, or in progress and undetermined under and by virtue thereof; provided that this Act is not in any way to affect the liability of the Collector of taxes, or his sureties, as respects any thing done or omitted, or any default made or to be made by him.