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26 Victoria – Chapter 35

An Act relating to the assessing, levying and collecting of Rates in the City of Fredericton. Passed 20th April, 1863.

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 City Council of the City of Fredericton 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 Fredericton for the following purposes:--

For making, repairing, altering, and improving the Streets, Squares, Bridges, and Highways:

For the support of the Poor:

For lighting the Streets:

For the administration of Justice:

For the maintenance of the Fire Department, including the erection and keeping in repair a sufficient number of Water Tanks:

For erecting, repairing, altering, and improving any public work.

2. Separate and detailed estimates shall be made up by the City 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; the City Council shall, at the same time, nominate one of the Assessors then in office to make the apportionment of such Rates according to the list or roll to be filed with the City Clerk, as hereinafter directed.

3. The City Clerk shall, immediately after such order and approval by the City Council, furnish the Assessors with a certified copy of the same.

4. The Assessors, immediately after being sworn into office, shall give public notice thereof in one or more of the Newspapers printed in the City; and any person assessed in the City may, within fourteen days after the publication of such notice, give to the said Assessors, or either of them, a statement under oath before the Mayor or a Justice of the Peace, of his property and income, in the manner prescribed in the Revised Statutes, Title viii, Chapter 53, Section 20, and such person shall be rated accordingly.

5. The Assessors on receiving the order for assessment mentioned in the second and third Sections of this Act, (provided the fourteen days mentioned in the last preceding Section of this Act have expired,) shall immediately assess or appraise the real and personal estate of the inhabitants of the City, and of non-residents having property therein; and all persons and bodies corporate, and Companies liable to be assessed, and the income of the said inhabitants derived from any trade, profession or calling within the Province, but not from real or personal property; and shall file with the City Clerk, a roll or list of such assessment, to be prepared in such form as the City Council may by any bye law made or to be made direct.

6. The City Clerk shall forthwith on receiving said roll or list, prepare and transmit the Warrant of assessment, together with the roll or list filed with him by the Assessors, to the Assessor appointed to apportion the rates.

7. The said Assessor appointed to apportion as aforesaid, within twenty days after receiving the Warrant aforesaid, shall complete the assessment roll transmitted to him by the City Clerk, in such form as the City Council, by any bye law made or to be made, may direct.

8. Immediately on the completion of the said Assessment Roll, the same, signed by all the Assessors, shall, by the said Assessor appointed to apportion, be placed in the hands of the City Treasurer.

9. The City Treasurer on receiving the said Assessment Roll, shall forthwith cause to be published in two or more of the Newspapers printed in the City, and by handbills posted up in each Ward of the City, a notice that he has received the said Assessment Roll, and that all persons assessed in the City shall be entitled to a deduction or discount of five per centum on the amount assessed against them respectively, upon payment of their respective rates to the City Treasurer within thirty days after the first publication of the said notice.

10. The City Treasurer upon receipt of the said Assessment Roll, shall also immediately prepare, or cause to be prepared, a notice to each person named in such Assessment Roll, in the form following:—

Mr. A. B.

Take notice that you have been assessed in the City of Fredericton for the year 186____, to the amount of \$ _____; being upon real estate to the value of \$ _____, personal estate to the value of \$ _____, and income to the value of \$ _____; and that unless the said sum of \$ _____ is paid to me on or before the ____ day of _____ next, an Execution will immediately thereafter issue against you.—Dated at Fredericton the ____ day of _____, A. D. 186____.

A. C., City Treasurer.

Which notice, when so prepared, shall forthwith be delivered to a Constable to be appointed for that purpose by the City Council, who shall without delay serve the said notices upon the respective persons to whom they may be respectively addressed, and when served, such notice shall, for the purposes of this Act, be deemed and taken to be a demand of the rates or taxes.

11. Immediately upon the expiration of the thirty days mentioned in the ninth Section of this Act, the City Treasurer shall by publication in two or more of the Newspapers printed in the City, and by handbills posted up in each Ward in the City, give notice that the Assessment Roll remains in his hands as Collector and Receiver of Taxes, (as hereinafter provided), and that all persons who have not paid within the thirty days as aforesaid are defaulters, and unless payment be made by them respectively at the expiration of the time mentioned in the demand of the rates or taxes, payment will be enforced without delay.

12. If any person assessed under and by virtue of this or any other Act of Assembly made or to be made, shall not pay the amount for which he is liable under such assessment, at the expiration of the time mentioned in the said demand of the rates or taxes, the City Treasurer may issue Execution (A) against the person so assessed, which Execution may be executed by any of the City Constables according to the tenor thereof; provided always, that proof of the service of the notice of demand of the rates or taxes shall be first certified by the person who served such notice before the Mayor, or in his absence, any Justice of the Peace for the City of Fredericton.

13. The Fee on Execution (A) issued under this Act, shall be as follows:—

To the City Treasurer, for the use of the City, on issuing every Execution, ten cents:

To the Constable for executing the Execution, forty cents.

14. 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 Agent or Trustee, may be rated in the name of the principal party or parties 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.

15. When any person made liable to pay any assessment shall not reside within the limits of the City, or his place of residence shall be unknown to the City Treasurer, the said City Treasurer shall cause public notice to be given of such rate and assessment by advertisement in one or more of the Newspapers published in the City, which advertisement shall be continued in such Newspaper for four consecutive weeks, unless some person shall within that time appear and pay to the City Treasurer the said rate and assessment, with the costs of the publication of such notice; if such person have a Clerk or Agent in the City, the notice of demand of rates or taxes may be delivered to such Clerk or Agent, and the said publication shall not be necessary, and the Mayor shall, on proof of such delivering, issue his Warrant (B), which shall be enforced as hereinafter directed.

16. If no person shall appear and pay the said rate assessment with the costs of the said publication within the time aforesaid, it shall be the duty of the Mayor, and he is hereby authorized and empowered, on the affidavit of the City Treasurer, verifying the due publication aforesaid, to issue the Warrant (B) under his hand and seal, directed to the Sheriff for the City of Fredericton.

17. It shall be the duty of the said Sheriff on receiving said Warrant, forthwith to give thirty days public notice in one of the Newspapers published in the City, and by handbills, and sell at public auction to the highest bidder 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 and assessment, with all the costs and charges attending the recovery of the same, retaining the overplus (if any) for the use of such owner.

18. 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.

19. When the estate of any deceased person shall be rated or assessed, and payment of the same be not made to the City Treasurer within ten days after the first publication of the notice mentioned in the eleventh Section of this Act, and there be no personal or legal representative of said estate residing in the City, upon whom the notice of demand as aforesaid can be served, the said rate and assessment shall be recovered in the same manner as provided for the recovery of the rates and assessments of non-residents in the fifteenth, sixteenth, seventeenth and eighteenth preceding Sections of this Act.

20. For the purposes of this Act, every person carrying on business in this City shall be deemed an inhabitant thereof, and the President or other chief officer, Cashier, Agent or Manager of any Joint Stock Company or Corporation, shall be deemed and be assessed as the owner of real and personal estate, capital stock, and assets of such Company or Corporation, and shall be dealt with and may be proceeded against accordingly; but such assessment shall be made separate and distinct from the personal assessment of such President, Chief Officer, Cashier, Agent, or Manager.

21. Such President, Chief Officer, Cashier, Agent, or Manager, may charge against and recover from such Company or Corporation, the amount of any assessment which he may be required to pay for or on account of such Company or Corporation.

22. The name, style, or firm, of any Co-partnership in trade or business, shall be entered in the assessment roll as assessed for the property or income of such Co-partnership, and the amount assessed may be recovered from and levied upon any member of such Co-partnership.

23. Nothing in this Act shall render liable to any assessment the real or personal estate, income, or other thing of "The City of Fredericton," or of any Religious or Literary Institution.

24. The Agent or Manager of any Joint Stock Company or Corporation established abroad, or out of the limits of this City, who shall carry on business for such Company or Corporation in the City of Fredericton, shall be rated and assessed in like manner as any inhabitant, upon the amount of income received by him as such Agent or Manager.

25. 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 Fredericton during the fiscal year, of said Companies or Corporations, preceding the making up the annual assessment.

26. Should the Agent or Manager of any such Company or Corporation mentioned in the two last preceding Sections, refuse to furnish the said Assessors with the required information, the said Assessors within ten days after the application in writing mentioned in the last preceding Section, may rate and assess the said Agent or Manager according to the best of their knowledge.

27. The Agent or Manager mentioned in the three last preceding Sections shall, for the purposes of this Act, 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; and such assessment shall be made separately and distinctly from any other assessment to which such Agent or Manager shall be liable.

28. The property in, and the inhabitants of that part of the City lying in rear of the line dividing the second and third ranges of pasture lots, and its prolongation southeasterly to the River Saint John, and northwesterly to the prolongation of the upper or northwesterly side line of land heretofore granted to Samuel Ferris, and above the said last mentioned line and its prolongation northeasterly to the said River, shall be exempt from taxation under this Act, except for the support of the Poor, making and repairing Streets and Highways, and the administration of Justice; the City Council may also remit so much of the rates imposed upon mills and other manufacturing establishments within the City, as they shall deem just and reasonable.

29. Any person thinking himself or herself aggrieved by any assessment for City Taxes, may appeal by petition under oath made before any Justice of the Peace, to the Assessors, who shall duly consider the same, and if they deem the party entitled to relief shall make such alteration in their assessment as to them shall appear to be just and right; provided such appeal be made within ten days after such person shall have received notice of such assessment; notice in writing of the decision of the Assessors shall be given forthwith to the appellant, signed by the Assessors or a majority of them.

30. Should the appellant be dissatisfied with the decision of the Assessors, he may appeal to the City Council, who may either affirm the first or amended assessment, or otherwise deal with the matter as they may deem just and right, and their decision shall be final; provided no such appeal to the City Council shall be made or received by them, unless the said petition under oath, or a

duplicate thereof, be filed in the City Clerk's office within ten days after notice of the decision of the Assessors shall have been given to the appellant.

31. The Assessors shall have liberty to search the office of the Register of Deeds for the County of York, to ascertain the amount of property owned by any person liable to assessment, and the Registrar shall receive for all searches from the Assessors connected with any one individual's property, the sum of twenty cents, 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 shall only be permitted to search, as Assessors, between the time of their appointment and the making the assessment, or on an assessment appealed from.

32. All rates and 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 principle of this Act, any thing in any law now in force to the contrary notwithstanding.

33. Any rate or assessment with which any lands, tenements or hereditaments in the City may be legally rated or assessed, may be levied and recovered either from the owner of the property so assessed, or from any person occupying the same or any part thereof as a tenant, or otherwise; the said tenant, or other person so occupying the same, being first served with notice of demand of such rates on taxes; and when any such rate or assessment shall be paid under and by virtue of this Section, by any person not liable for such rates or assessments by the terms of his lease or agreement under which he holds or occupies such property, he may deduct or set off the sum so paid from the rent payable by him for such property, or may recover the same with costs from the said owner by action for money paid, in any Court of competent jurisdiction.

34. All debts that become due and payable to the said City of Fredericton for any rate or assessment in the City, shall be privileged debts, and shall be paid in preference to all other debts excepting debts due to the Crown, and shall in the distribution of the proceeds of property of any person liable for such debt, be so held and adjudged in all Courts in this Province; such preference shall not extend beyond the amount due for two years, that is to say, the amount due for the then current year, and the year next preceding.

35. If property belonging to one person shall be assessed against another person, or if the name of any person liable to be assessed shall have been omitted in the assessment list, or if any error shall occur in the addition, extension, or apportionment of any part of the said list, the Assessors may correct such errors and supply such omissions at any time before another assessment is made for a similar purpose.

36. No assessment shall be deemed illegal although the aggregate amount thereof may exceed the amount ordered to be raised, if such excess do not amount to more than ten per cent.

37. In case 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.

38. The City Council are hereby authorized to make such bye laws and ordinances for the making, levying and collecting all City Taxes ordered by the City Council, as they may from time to time deem necessary and expedient; and also are empowered to make bye laws for the government of the Assessors, and City Treasurer as Collector and Receiver of City Taxes, and to order and direct the mode in which they shall execute their duties, and for the enforcement thereof, not in any case exceeding forty dollars for each offence; provided that no bye law or ordinance so made shall be repugnant to any part of the spirit and meaning of this Act.

39. For the purposes of this Act the City Treasurer shall be the Collector and Receiver of City Taxes, and his receipts for City Taxes shall be signed by him as 'Collector and Receiver of City Taxes.'

40. The term 'City Taxes' in this Act shall be construed to mean all such rates and assessments as shall be imposed by the City Council upon the City, or any district thereof, by virtue of this Act or Acts of Assembly.

41. The term 'Real Estate' in this Act shall be deemed to signify land, and buildings or erections upon lands, and any term or terms of years, or present beneficial and productive interest in land; and the term 'Personal Estate' shall be deemed to signify all goods, chattels, money, capital, and effects, and any share or interest therein, and all goods, debts, whether due upon account, 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.

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

43. The City Council shall assess upon the said City a sum not exceeding three hundred and fifty pounds, to pay off the amount justly due for the preparations made in the City for the reception of His Royal Highness the Prince Of Wales; such sum to be assessed, levied and collected in the same manner as is directed for the assessing, levying and collecting of other City rates by this Act; provided that half the said sum so due shall be assessed and levied during the present year, and the remainder during the year one thousand eight hundred and sixty four.

44. The amounts due for the services mentioned in the last preceding Section shall be paid to the several persons entitled thereto, by the order of the City Council.

45. This Act may at all times be referred to and designated as 'The Fredericton Assessment Act of 1863.'

46. So much or such parts of any Law now in force relating to levying, assessing and collecting of Rates in the City of Fredericton, 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.

SCHEDULE TO THIS ACT.

(A.) Execution.

To any Constable of the City of Fredericton.

Levy and sell of the goods and chattels of A. B. within the City of Fredericton, the sum of _____ which has been assessed upon him for City Rates for the year of our Lord 18____, and also 10 cents for this Execution, in the whole amounting to _____, and have that money at my office on the ____ day of _____, [not less than ten nor more than thirty days from the date of the Execution]; and for want of goods and chattels, take the said A.B. and deliver him to the Keeper of the Gaol for the County of York, who hereby required to receive him and keep him safely [being for every day forty cents] days unless the same with costs be sooner paid, and make return hereof at the day and place aforesaid.—Dated this ____ day of _____, A. D. 18_____.

A. C. City Treasurer.

(B.) Warrant.

To the High Sheriff of the City of Fredericton.

You are hereby commanded to sell at public auction to the highest bidder, first giving thirty days' public notice thereof, so much of the real estate of A. B. situate, lying and being in the City of Fredericton, as in your judgment will be sufficient to pay the sum of _____ being the City Taxes due by the said A. B. and the costs of advertising same, for the year of our Lord 18____, with all your costs and charges, and make return of the said sum of _____ [being the amount of taxes and costs of advertising, &c.] and this execution to me within forty days.—Given under my hand and seal this ____ day of _____ A. D. 18_____.

W. H. N., Mayor.