

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1865.* Fredericton, NB: G. E. Fenety, Printer to the Queen's Most Excellent Majesty, 1865.

28 Victoria – Chapter 28

**An Act to amend the Law relating to Sewerage in the City of Saint John, on the eastern side of the Harbour. Passed 8th June, 1865.**

Section.

1. Power of Commissioners to lay down Mains or common Sewers.
2. Size of Sewers.
3. Drains connecting with Sewers, how built.
4. When Commissioners may compel owners of land to build drains to connect with Sewers.
5. Persons building drain to connect with Sewer without permission of Commissioners, penalty; builing drains with permission, Fee.
6. Power of Commissioners to enter upon lands; proviso.
7. Commissioners to issue Debentures.

Section.

8. Interest on and payment of Debentures, how provided.
9. Moneys raised by Debentures, how appropriated.
10. Commissioners may make Bye Laws.
11. Commissioners individually responsible only.
12. Chairman of Commissioners to give Bonds.
13. Commissioners to keep record of expenditures, &c.
14. Cap. 72, Title x, Part I, Rev. State. in part repealed.
15. Sections 10, 11, 12, 13, 18th Vic, Cap. 38, repealed.

Whereas it is expedient that certain alterations, additions and amendments should be made in an Act of Assembly of this Province, passed in the eighteenth year of the Reign of Her present Majesty Queen Victoria, intituled *An Act to provide for an improved system of Sewerage and Water Supply of part of the City of Saint John, and Parish of Portland in the County of Saint John*, in that part relating to Sewerage;

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

1. The Commissioners of Sewerage and Water Supply of part of the City of Saint John, and Parish of Portland in the County of Saint John, shall, whenever they deem it expedient or necessary, construct and place Mains or common Sewers in any street, highway, alley, or lot of land, being private property or otherwise, in the City of Saint John on the eastern side of the Harbour, and maintain and repair all main Sewers in the said City.
2. All common sewers laid down by the said Commissioners in any street, highway, or alley, shall be laid as nearly as possible in the centre of such street, highway, or alley; and where it is practicable and advisable, such common sewers shall be of such dimensions to be entered and cleaned without disturbing the surface of the street above.

3. All drains which shall hereafter be carried or conducted from any private lot, grounds, or premises, into any such main or common sewer, shall be built of such materials as the said Commissioners shall direct, and shall be laid under their directions, of such size and with such descent, and when required, with such strainers, as they the said Commissioners shall require, and shall, if practicable, be of sufficient size to be cleaned from the common sewer without disturbing the surface of the street above.

4. The said Commissioners shall have power to require any owner of lands fronting upon or adjoining any street, highway, lot or other place in the City of Saint John, on the eastern side of the Harbour, in which any common sewer has been or shall be laid down, his agent or tenant, to construct a sufficient drain from his house, yard, or lot, to and into such common sewer, whenever in the opinion of such Commissioners the same shall be necessary, and shall give notice in writing to such owner, his agent or tenant, of the time within which such drain shall be completed; and in case the said owner, his agent or tenants, shall neglect to construct or complete the same within the time specified in such notice, the said Commissioners shall cause the same to be done, and shall recover the whole amount of the expense incurred by them in so doing, as also the charge for entering a main sewer, with costs of distress and sale of any goods or chattels found in or upon such house, yard, or lot, or by sequestration of such house, yard, or lot, or by any other method or proceeding prescribed in and by the said recited Act for the collection of any rates, assessments or arrearages therein mentioned; such distress and sale, sequestration, or other method or proceeding as aforesaid, to be had, made, conducted and prosecuted in the same manner and with like effect as any distress, sale, sequestration, or other method of proceeding under the said recited Act.

5. Any person carrying or conducting any drain from any such private lot, ground, or premises, without permission in writing from the Chairman of the said Commissioners of Water Supply and Sewerage, shall forfeit and pay the sum of twenty dollars to the said Commissioners, and shall also be liable to pay all such damages, by way of indemnification, as the said Commissioners shall deem just and reasonable; and all persons to whom the said permission shall be granted, shall pay therefor a sum of not less than ten dollars, as the said Commissioners shall fix and determine, which sums may be recovered in the same manner as any assessment or penalty may be recovered under and by virtue of the same recited Act.

6. The said Commissioners, or any or either of them, and their servants, agents, or workmen, shall have full power, and they are hereby authorized from time to time as occasion may require, or the said Commissioners, or either of them, may deem necessary, to enter into and upon any lands, tenements and premises in the said City, on the eastern side of the Harbour, whether inhabited or otherwise, and lay down and construct any main sewer or drain, or branch sewer or drain, in, through and along any such lands or tenements, and also inspect, repair, take up, replace, alter and amend any such main or branch sewer or drain, and open up any natural water course when the same may be obstructed, and may remain on any such lands and premises as long from time to time as they may deem requisite for the proper execution of any such work or works, and may make all such excavations on the premises as may be expedient, and take up and remove any floors, timber, planks, or any walls, fences, or erections whatsoever, doing no

unnecessary damage to the same, and carefully replacing the same, upon the requisite work being performed, provided no such entry shall be made between the hours of sunset and sunrise, nor without the permission of the owner or occupant, if resident on the premises, being first requested, but the refusal of such permission shall not prevent or delay the execution of the work; and the said Commissioners shall, for the purposes of this Act, have within the said City of Saint John, on the eastern side of the Harbour, all such further and other powers and authorities as are given to the said Commissioners by the fourteenth Section of the said Act, eighteenth Victoria, Chapter 38.

7. For the purpose of carrying out the system of Sewerage under the provisions of this Act, and complying with the other requirements hereof, the Commissioners are hereby authorized and empowered to make an additional issue of Debentures to an amount not exceeding sixty thousand dollars in the whole; no greater sum than twenty thousand dollars to be issued or expended in any one year, to be charged, paid and redeemed in the same manner as the Water Debentures, and the interest thereof, issued under the said Act of Assembly, eighteenth Victoria, Chapter 38, and to be called Sewerage Debentures.

8. To meet the interest of Debentures issued under this Act, and the annual expenses, as well as to provide for the payment of the principal by a sinking fund or otherwise, the said Commissioners are hereby empowered to order and direct a yearly assessment on that part of the said City lying on the eastern side of the Harbour, and the inhabitants thereof, of such a sum or sums of money, not exceeding four thousand dollars in any one year, besides the costs and charges of assessing and collecting, as shall be necessary therefor, to be assessed, levied and collected under the provisions and according to the principles of the "Saint John City Assessment Act of 1859," and the several Acts in amendment thereof, which sums shall from time to time as collected be paid over by the Collector or Receiver of Taxes for the said City to the said Commissioners of Sewerage and Water Supply.

9. The moneys raised under this Act by the sale of Debentures as aforesaid, shall be appropriated to the making, laying down, and repairing of sewers, and opening water courses in the said eastern part of the City of Saint John.

10. The said Commissioners are hereby authorized to make bye laws, not repugnant to the spirit and meaning of this Act, and to impose reasonable penalties for the breach or violation thereof, not exceeding twenty dollars, which penalties shall be recoverable in the same manner as any penalties imposed under and by virtue of the Act of Assembly, eighteenth Victoria, Chapter 38.

11. The Commissioners shall not be answerable the one for the other of them, nor for the acts, defaults or misdoings of each other, and in case of any default or misapplication of the moneys received by any Commissioner by virtue of this Act, the whole real and personal estate of such Commissioner within the Province shall be liable for the same in like manner as for a debt due unto the Crown, and immediately upon such default or misapplication being made known to the Lieutenant Governor or Commander in Chief of the Province for the time being, it shall be his duty to order a writ of extent to be thereon issued.

12. The Chairman of the said Commissioners for the time being, in addition to the liabilities in the last foregoing Section mentioned, shall give security by Bond to the Mayor, Aldermen and Commonalty of the City of Saint John, in such sum and sums and with surety or sureties to the satisfaction of the Common Council of said City, for the faithful discharge of all the duties of his office under the provisions of this Act, and for accounting to the Common Council of said City from time to time for all or any of his acts, when they shall deem it necessary and so order, and for the payment over of all moneys in his hands as such Chairman, or as one of such Commissioners, to any Chairman appointed by the Common Council to succeed him on any change of Commissioners.

13. The said Commissioners shall keep regular Books of Account, in which shall be entered all moneys received and all disbursements made from time to time under the authority of this Act; and also file in the office of the said Commissioners all correspondence, contracts, estimates, and other papers appertaining to the same; and they shall annually on or before the first day of March, file in the Common Clerk's office detailed Accounts of their receipts and expenditures under this Act; and the Auditors appointed in each year to audit the Accounts of the Water Commissioners, under said Act eighteenth Victoria Chapter 38, shall also audit and report on the said Accounts filed by virtue of this Act.

14. Chapter 72, Title x, Part I, of the Revised Statutes, is hereby repealed, except in so far as relates to any thing done or commenced, and in progress and undetermined under and by virtue thereof, or to the recovery of any assessment made by virtue thereof.

15. Sections 10, 11, 12, 13, and such other Sections of the Act of Assembly 18 Victoria, Chapter 38, as are repugnant to this Act, so far as they relate to Sewerage in the City of Saint John, are hereby repealed.