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28 Victoria – Chapter 29

An Act relating to Water Supply in the City of Saint John and part of the Parish of Portland in the County of Saint John. Passed 8th June, 1865.

Section.

1. Sec. 9, 18 Vic., Cap. 38, repealed; owners of lands through which Mains pass to be assessed.
2. Owners of personal property taxable.
3. Numbers of lots and names of parties to be entered in assessment book and filed with Common Clerk; appeal how made.
4. Owners, &c., to give true returns and answers to Commissioners; penalty.
5. Commissioners to make an annual detailed statement.
6. General assessment to be made in case of deficiency.
7. Two Commissioners may act.
8. Application of 4th Section, 26 Vic., Cap. 28.
9. Commissioners authorized to issue Debentures; limit.
10. Commissioners authorized to issue further Debentures; limit.

Section.

11. Assessment if not paid within thirty days Commissioners to issue Warrant.
12. Commissioners may order sale of real estate of defaulters.
13. Rates due at passing of Act may be collected by Commissioners.
14. Collection from customers; how collected.
15. When streets are mentioned, to apply to squares, &c.
16. Commissioners may correct error in assessment list; proviso.
17. To whom Sections 14 and 115, Cap. 38, 18 Vic. applies.
18. Powers vested by Cap. 72, Title x, in Corporation, now vested in Commissioners.
19. Commissioners or agents may enter on land.
20. Penalties, how recovered.

Whereas in consequence of the great public benefit and protection to property derivable from the introduction of Water into the City of Saint John, and district of the Parish of Portland in the County of Saint John, under and by virtue of an Act passed in the eighteenth year of the Reign of Her present Majesty, 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*, and the several Acts in amendment thereof, it is equitable that all real estate, whether built upon or vacant, and all stocks in trade, wares and merchandise, in the whole of the said City on the eastern side of the Harbour, and within a certain distance of the mains in said district of the Parish of Portland, should be assessed annually as hereinafter provided by the Commissioners now or hereafter to be appointed under and by virtue of said Acts, or any of them;—

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

1. The ninth Section of the said recited Act, eighteenth Victoria, Chapter 38, 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*, is hereby repealed, except as to any thing done, pending or in progress and undetermined under and by virtue thereof; and in lieu thereof, the owners in fee or leaseholders for renewable terms of any lands or tenements situate within the whole City of Saint John on the eastern side of the Harbour, and within that part of the district of the Parish of Portland mentioned in said recited Act, through or along which, or within seven hundred feet of which, in said Portland District, mains for the supply of water shall pass, and also the owner of or traders in all stocks in trade, wares, and merchandise in said City, and such hereinbefore specified part of said district of the Parish of Portland, shall, whether the water be taken or used on the premises respectively, or not, be assessed for the purposes of the said recited Act, eighteenth Victoria, Chapter 38, and the several Acts in force in amendment thereof, in each year, at a rate and rates to be fixed and determined by the Commissioners in each year in their discretion, according to the Schedule (B) appended to this Act, and being part thereof; and where pipes for the supply of water are laid to any premises, then at a rate and rates to be fixed and determined by the said Commissioners in each year in their discretion, according to the Schedule (C) also appended to this Act, and forming part thereof, excepting steam mills, manufactories, baths, hotels, and all places and premises for which and where a large quantity of water is required, which shall be rated by agreement with the parties. If in settling any such rate and rates, or in any other matter within the scope of their authority, any difference should arise among the said Commissioners, the same shall be decided by a majority of said Commissioners.

2. That the owner of all furniture and personal property benefitted by the protection from fire that water supply affords, of the value of one hundred and fifty pounds and upwards, shall be taxed in the same manner and at the same rate per centum as stocks in trade, wares and merchandize.

3. In the Assessment Book the several lots or premises assessed, whether occupied or vacant, shall be numbered, and the rate assessed on each set down, and the names of the parties assessed on stocks in trade or otherwise, and the amount on which assessment made and the rate, and a copy of the assessment shall be filed by the Commissioners in the Office of the Common Clerk of the said City, on or before the first day of September in each year; and if any person shall think himself aggrieved by reason of such assessment, it shall be lawful for him, in case the same shall be upon the premises situate in the said City, to appeal there-from to the Common Council of the said City; and in case the assessment shall be upon premises in the said District of the said Parish of Portland, such appeal shall be to the General Quarter Sessions of the said City and County, and the decision in either case shall be final, and the assessment be amended by the said Commissioners in accordance with such order as may be therein made by the said Common Council or Sessions respectively, provided that all such appeals shall be made within thirty days after the demand of the amount assessed shall have been made upon the party so appealing; and in case at the time of such appeal said General Sessions of the Peace shall not be sitting, then the party appealing shall file his appeal at the office of the Clerk of the Peace for the City and County of Saint John, and a certificate under the hand of the said Clerk of the Peace, of the filing of such appeal lodged in the office of the Commissioners aforesaid, shall stay further

proceedings to recover such rate until such appeal be determined at the General Sessions holden next thereafter.

4. All persons owning or occupying any premises liable to be rated under this Act, or the Acts to which this is an amendment, shall give correct, and true answers and returns to the Water Commissioners, their officers, or persons appointed by them for the purpose, as to the occupation of any such premises and the use of water thereon, and the average yearly value of stock in trade, and all other personal property, wares and merchandise, within the City of Saint John on the eastern side of the Harbour and in the Parish of Portland, in the districts to which the tax extends, owned by him or them, under a penalty for every neglect or refusal of a sum not exceeding twenty dollars nor less than five dollars; provided, however, that timber and lumber not piled on the wharves on the eastern side of the Harbour of Saint John shall not be liable to be taxed.

5. Among the detailed accounts required by the third Section of the Act passed in the twenty fifth year of the Reign of Her present Majesty, intituled *An Act in further amendment of the Law relating to Water Supply and Sewerage in the City of Saint John, and part of the Parish of Portland in the County of Saint John*, the said Commissioners shall render annually a statement shewing the whole amount collected, together with all sums in arrear and unpaid, and the names of the defaulters, so as to exhibit a debtor and creditor account of that part of the service, and file the same in the Common Clerk's office.

6. In lieu of the 25th Section of the said first recited Act, for any deficiency for each year in meeting the expenditure for water supply and consumption, and interest, under the said first recited Act or Acts in amendment thereof, beyond the amount annually raised in manner aforesaid for water supply and consumption, a general assessment shall be made by Warrant under the hands and seals of the said Commissioners, or a major part of them, on the whole of the said City on the eastern side of the Harbour, and the inhabitants thereof, and on the said district of Portland and the inhabitants thereof, such district to be assessed and to pay fifteen per cent of the said deficiency as its proportion, to be levied, assessed, and collected in every respect by the same persons, and as regards the real and personal estate and income of the inhabitants, and also the real estate of non-residents and all other things, the poll rate only excepted, in the same manner as any assessment is now or may be hereafter made by law for levying, assessing and collecting County, Town, or Parish charges; and when collected shall be paid to the said Commissioners, and the remainder of the said deficiency to be levied, assessed and collected on the eastern side of the Harbour of the said City, as any other rate levied or imposed upon the said City under the provisions of the Saint John City Assessment Act of 1859, and the several Acts in amendment thereof; and when collected to be paid to the said Commissioners, provided that the Warrants to be issued by the said Commissioners may be issued in the present year at any time before the tenth day of August, and in all succeeding years on or before the tenth day of May in each year.

7. All and every of the powers, functions, duties, acts and things conferred upon, or required or authorized to be done by the Commissioners appointed or to be appointed under and by virtue of the said Act eighteenth Victoria, Chapter 38, hereinbefore mentioned, and the several Acts in

amendment thereof, and this Act, may be exercised, ordered, done and performed by two of the said Commissioners, of whom the Chairman shall be one.

8. The provisions of the fourth Section of the Act twenty sixth Victoria, Chapter 28, shall be held and taken to apply to any rate or rates levied and assessed under or by virtue of the Act eighteenth Victoria, Chapter 38, or under any Act in amendment thereof, or this Act; provided that this Act shall not be construed to confirm, legalize or establish any act or thing done or committed by the said Commissioners, or the Water Company incorporated by Act of Assembly made and passed in the second year of the Reign of King William the Fourth, intituled *An Act to incorporate sundry persons by the name of the Saint John Water Company*, contrary to the true meaning or provisions of any law or laws relating thereto.

9. For the purpose of more fully completing the system of water supply contemplated under the said first recited Act, and the several Acts in amendment thereof, the Commissioners are hereby authorized and empowered to make a further issue of Debentures to an amount not exceeding the sum of one hundred thousand dollars in addition to the amount authorized by the provisions of the said Acts, to be charged, paid and redeemed in the same manner as the Debentures and the interest thereof, issued under the said recited Act, and the Acts in amendment thereof.

10. In addition to the last preceding Section of this Act, the Commissioners are hereby authorized and empowered to make a further issue of Debentures to an amount not exceeding fifty two thousand dollars currency, or ten thousand five hundred pounds sterling, for the purpose of paying and redeeming the sum of ten thousand five hundred pounds sterling issued by the Commissioners, and becoming due and payable in London on the first day of May one thousand eight hundred and sixty seven.

11. If any person assessed under and by virtue of the said first recited Act, or the Acts in amendment thereof, or this Act, shall not pay the amount for which he is liable under such assessment within thirty days after notice of demand thereof, the Commissioners may have the option to issue execution (A), to be signed by the Chairman, against the person so assessed, which execution maybe executed by the Sheriff, or any Marshal of the City of Saint John, or any Peace Officer of the City and County of Saint John; provided always, that the proof of such notice of assessment, and the non-payment of such assessment, shall be verified by the affidavit of the Collector or other officer appointed by the Commissioners for that purpose.

12. It shall be lawful for the said Commissioners by Warrant under their hand and seal, to order the Sheriff of the City and County of Saint John to make sale of the real estate, or such part thereof as may be necessary of the said person so assessed, according to the provisions of the 24th Section of the Saint John Assessment Act of 1859, which sale shall be made and conducted in every respect as directed by said Act, and the said Act shall apply to the said Commissioners of Water Supply and Sewerage in the same manner as the same is now enacted therein with reference to the receiver of Taxes for the said City of Saint John, and to all powers, duties, parties and officers therein mentioned, and applicable to the said receiver of Taxes.

13. The Commissioners shall have power to collect all such water rates and assessments as are unsettled at the time of the passing of this Act, and may give the like notice in respect thereof, and take the same proceedings for the collection thereof, as herein provided for assessments made under this Act, and the Act of eighteenth Victoria, Chapter 38, aforesaid, and the Acts in amendment thereof.

14. It shall be lawful for the Commissioners to collect from agreement customers, for steam mills, manufactories, baths, hotels, and all other agreement customers, quarterly, and if not paid, the Commissioners shall have authority to issue executions in the same manner as any other rates and assessments.

15. Where any streets are mentioned in the Act of eighteenth Victoria, Chapter 38, and the Acts in amendment thereof, the same shall apply and extend to squares, roads, alleys, lanes, courts, places, and all other thoroughfares by whatsoever style or like called, and for the carrying out of the provisions of said Acts, or of this Act, and the Chapter 161, 'Of terms, explanations, and general provisions,' of the Revised Statutes, Title xli, shall apply to the said Acts.

16. If any error in the preparation of the Assessment List by the Commissioners be made, they may at any time before a subsequent rating correct such error in such Assessment List; provided that a record of any such corrections or alterations be forthwith filed in the Common Clerk's office.

17. The provisions of the Act eighteenth Victoria, Chapter 38, Sections fourteen and fifteen, shall extend and apply to all persons and officers employed by the Commissioners for making, preparing and completing any plans for levels, sewerage, properties, and all other plans contemplated and necessary for the carrying out of the said Act and Acts in amendment thereof, and this Act.

18. All powers now vested in the Corporation of Saint John by the Revised Statutes, Chapter 72, Title x, are hereby divested out of the Corporation and transferred to and vested in the said Commissioners.

19. 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 make, or cause to be made, surveys, plans, specifications, and other descriptions of the same, or any part thereof, and may lay down and construct any main sewer or drain, or any 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, timbers, planks, or any walls, fences, or erections whatsoever, doing no un-necessary 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.

20. Penalties imposed under this Act may be recovered, with costs, by summary convictions, if within the City of Saint John, before the Police Magistrate of the City of Saint John, in the same manner and with the like effect as any other penalties can be enforced before any Police Magistrate; and if within the said Parish of Portland, before the Police Magistrate for the Portland Police District, in the same manner and with the like effect as any other penalties can be enforced before said Police Magistrate in Portland Police District.

Schedule A.

Execution.

To the Sheriff of the City and County of Saint John, or any Constable or Marshal of the City of Saint John, or Peace Officer in said City and County,— Levy and sell of the goods and chattels of A. B. within the City and County of Saint John, the sum of _____ which has been assessed upon him, under the Act relating to Water Supply in the City of Saint John, and part of the Parish of Portland in the County of Saint John, and the other Acts relating to the same, and _____ for costs of execution and levying, the whole being _____ 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 whereon to levy, take the said A. B. and deliver him to the keeper of the gaol of the City and County of Saint John, who is hereby required to receive and safely keep him _____ 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_____.

C. D.,

Chairman of Commissioners.

(B)

In the City of Saint John on the eastern side of the Harbour.

For every four hundred dollars value of real estate on which any buildings are erected, including the value of such buildings, on the line of any main pipe, or within seven hundred feet of any main, _____ per centum.

For every four hundred dollars value of real estate on which any buildings are erected, including the value of such buildings, situate in any part of the said City, not included within the former section, _____ per centum.

For every four hundred dollars value of vacant land on which no building is erected, situate on the line of any pipe, or within seven hundred feet of any main, _____ per centum.

For every four hundred dollars value of vacant land on which no building is erected, situate in any part of said City not included within the last preceding Section, _____ per centum.

For every four hundred dollars value of all stocks in trade, wares and merchandise, and personal property, situate, stored, or being on the line of any main pipe, or within seven hundred feet of any main, ___ per centum.

For every four hundred dollars value of all stocks in trade, wares and merchandise situate, stored, or being in any part of the said City not included in the last preceding Section, _____ per centum.

Any person liable to be assessed for stock in trade, may, when called upon by the Commissioners, make a statement on oath of the annual value of his stock, and it shall be valued accordingly.

In District in the Parish of Portland.

For every four hundred dollars value of real estate on which any buildings are erected, including the value of such buildings, on the line of any main pipe, or within seven hundred feet of any main pipe, _____ per centum.

For every four hundred dollars value of all stocks in trade, wares, and merchandise, situate, stored, or being on the line of any main pipe, or within seven hundred feet of any main, _____ per centum.

(C)

In the City of Saint John on the Eastern side of the Harbour, and in the district of the Parish of Portland, when supply pipe from main is led to premises.

For one Family,	....	....	....	....	\$
Second Family in same house,	....	....	....	....
Each additional Family,	....	....	....	....
Each water closet,	....	....	....	....
Each bath,	....	....	....	....
Each light wagon horse, including water for washing carriage,	....	....	....	....

Each additional horse,	....	....	....	....
Omnibus, coach, or truck horse,	....	....	....	....
Livery stables,	....	....	....	....
Each horse, including water for washing carriage,				
Taverns,	....	....	....	....
Saloons,	....	....	....	....
Shops,	....	....	....	....
Workshops,	....	....	....	....
Manufactories,	....	....	....	....

No unoccupied house shall be rated for consumption; should it: however be occupied, a pro rata charge to be made for the remainder of the year.