

assessments are assessed and collected by virtue of any Act of Assembly made or to be made for that purpose in this Province.

CAP. XIII.

An Act to amend the Act for the more effectual recovery of fines imposed upon Jurors and Officers attending the Courts of Justice in this Province.

Passed 1st March 1837.

I. **BE** it enacted by the Lieutenant Governor, Legislative Council and Assembly, That the second section of an Act made and passed in the sixth year of the reign of King George the Fourth, intituled "An Act to provide for the more effectual recovery of fines imposed upon Jurors and Officers attending the Courts of Justice in this Province," be and the same is hereby repealed, excepting nevertheless so far as may regard the due execution of any writ of *levari facias* already issued, and the due recovery, payment, accounting for or appropriation of any monies already levied, or directed to be levied by any such writ so issued before the passing of this Act.

6 G. 4, C. 19,
S. 2, repealed.

II. And be it enacted, That the Clerk of the Court by which any such fine or fines as are mentioned in the said Act shall have been set or imposed, shall within twenty days after the adjournment of such Court enter on a roll or list the names of the persons upon whom any fine or fines shall have been set or imposed at such Courts, and their places of residence, together with the amount of fines set or imposed upon each respectively, and shall within such time as aforesaid prepare and deliver to the Sheriff of the County wherein such Court shall have been held, a writ of general *levari facias* according to the form in the schedule to this Act annexed, to which writ the said roll or list shall be annexed; and that it shall be the duty of the Sheriff on receipt of such writ, forthwith to levy or cause to be levied of the goods and chattels of the several persons respectively the fines mentioned in the said roll or list thereunto annexed, and to pay the amount of the said fines which may be so levied to the Treasurer of the County, whose receipt for the same endorsed on such roll or list shall be a sufficient discharge to the said Sheriff: Provided always, that if before the issuing of such writ, any person or persons upon whom any such fine may be set or imposed shall tender the amount thereof to the said Clerk, such Clerk shall and he is hereby authorized and required to receive and pay the same to the said County Treasurer, and he shall mark the same on the roll or list as so satisfied, and that in such case the Sheriff shall not proceed to levy on such person or persons by virtue of the said writ.

Clerk of the Court imposing fines to send a writ of general *levari facias*, to the Sheriff with a roll of delinquents annexed.

Sheriff to proceed forthwith.

Proviso for payment before issue of writ.

III. And be it enacted, That every Sheriff to whom any such writ of *levari facias* shall be delivered, shall be entitled to levy, recover and receive, in addition to the fine or sum mentioned in the roll or list, the sum of five shillings from each person named in such roll or list on whom a levy may be made, such sum of five shillings to be received and retained by such Sheriff in lieu of any poundage fees or other charges to which he would be by any law or ordinance entitled, and in full of all such charges and all other charges, attending such levy, the reasonable and necessary expenses attending the sale of any goods or chattels which may be levied on alone excepted.

Sheriff to levy five shillings from each person in addition to the fine, as his fees.

IV. And be it enacted, That it shall be the duty of the Sheriff, immediately on the receipt of such writ, to endorse thereupon the day of the month and year on which the same was so received, and within the space of three calendar months from such day to make due return of his proceedings thereon, and to file such writ,

Sheriff to endorse date of receipt of writ, and make return within three months.

Repealed by
12th Cap
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Penalty.

writ, together with the roll or list thereunto annexed, and his return thereto, with the clerk by whom the same may have been issued, or his successor in office, to remain on file in the office of such clerk; and that any Sheriff failing in the performance of the duty required by this Act, shall be considered guilty of a contempt of Court, and may for such offence be proceeded against and punished as for a contempt; and it shall be the duty of such clerk to report to the Court any omission or failure of the duty required of such Sheriff by this Act.

V. 'And whereas the clerk of the Circuit Courts in this Province is also clerk of the Courts of Oyer and Terminer and general gaol delivery, and such Courts are usually holden in the several Counties at the same time; and in like manner the clerks of the General Sessions of the Peace are also clerks of the Inferior Courts of Common Pleas of the several Counties respectively; and the Sessions are holden at the same times or terms as the said Inferior Courts, and defaults are usually committed by the same persons at both the Courts so holden at the same time, it is therefore deemed unnecessary that more than one writ of *levari facias* should be issued by the clerks of the said Courts respectively at the same time;' Be it enacted, that it shall and may be lawful for the clerk of the Circuit Courts and Courts of Oyer and Terminer to include in the same roll or list, as well any fines which may be set or imposed by the Circuit Court or Court of *nisi prius*, as the fines set or imposed by the Court of Oyer and Terminer holden at the same time and place, and to issue one writ of *levari facias* for the recovery of the same; and in like manner it shall and may be lawful for the clerks of the General Sessions of the Peace and of the Inferior Courts of Common Pleas for the several Counties respectively to include in the same roll or list the fines imposed by the said Sessions, and those imposed by the Inferior Courts holden at the same time and place, and to issue one writ for the recovery of the same: Provided always, that nothing herein contained shall extend or be construed to authorize the imposition of any fines, except by the Judge or Judges of the Courts respectively at which the defaults or offences for which the same are imposed are committed, or to prevent the issue of several writs, should the said Courts so order and direct.

Clerk of the Circuit Courts and Courts of Oyer and Terminer, and Clerk of the General Sessions of the Peace and Inferior Courts of Common Pleas may include in one writ of *levari facias* the defaulters at the several Courts of which they are Clerks.

County Treasurers to keep separate accounts of the fines, and render them on oath on the first day of the sitting of the several Courts.

Compensation.

Penalty for neglect.

VI. And be it enacted, That it shall be the duty of the Treasurers of the several Counties respectively to whom any such fines may be paid, to keep the statements and accounts of the fines imposed by the Circuit Courts and Courts of Oyer and Terminer distinct and separate from those imposed by the General Sessions and Inferior Courts of Common Pleas; and in like manner it shall be the duty of the Treasurer for the County of York to keep the statement of the fines imposed by the Supreme Court or any of the Judges thereof, at any sittings for the County, distinct and separate from those imposed by the Sessions and Inferior Court of Common Pleas of the said County; and it shall further be the duty of the said County Treasurers respectively to prepare and exhibit a true and correct statement and account, verified by the oath of the said Treasurer, as well of the amount received by him for fines, as the sums paid therefrom by order of the Court imposing the same; and that such account shall be delivered on the first day of the sitting of the several Courts respectively, and remain on the files of such Court; and for the services to be performed by such County Treasurers, they shall be allowed to charge and retain two and one half per cent. or sixpence in the pound on the amounts so received for such fines; and that any County Treasurer failing in the performance of the duty required of him by this Act shall be considered guilty of a contempt of Court and may for such offence be proceeded against and punished as for a contempt.

VII. And be it enacted, That the several successive Circuit Courts, and Courts of Oyer and Terminer sitting in and for the same County, shall for the purposes of this Act, and the Act whereto this is an amendment, be vested with the like power and authority with regard to any fines set or imposed, or orders made for the levying, receiving, paying, accounting for and appropriation thereof, at any previous Circuit Court and Court of Oyer and Terminer, as if such fines were set or imposed, or orders made at the same Courts; although the said Courts may sit by virtue of several commissions or appointments issued or made at different times.

Successive Circuit Courts and Courts of Oyer and Terminer to have jurisdiction over fines imposed by similar previous Courts for the same County.

SCHEDULE.

William the Fourth, by the grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the faith. To our Sheriff of _____ greeting: We command you that of the respective goods and chattels of all and singular the persons mentioned in the roll or list hereunto annexed, you do without delay levy or cause to be levied all and singular the fines and sums of money upon them respectively imposed and set, and in the said roll or list mentioned, together with the sum of five shillings from each of them for your service and expense in the execution of this writ, and that you do forthwith pay to the Treasurer of the said County the fines so levied, and make return hereof as by law directed. Witness _____ Esquire, at _____ in the said County the _____ day of _____ in the _____ year of our reign. _____ A. B., Clerk.

Form of writ of *levari facias*.

[To be signed by the Clerk, and tested in the name of the presiding Judge or Justice, on the last day of the term or sitting of the Court.]

CAP. XIV. *De omnibus actis, et proceduris suis*

An Act for the amendment of the Law and the better advancement of Justice.

Passed 1st March 1837.

I. **B**E it enacted by the Lieutenant Governor, Legislative Council and Assembly, That in case any defendant in any non-bailable writ or process issued out of the Supreme Court, or out of any Inferior Court of Common Pleas in this Province, has a known place of abode within the jurisdiction of the Court from which such writ or process may have issued, such writ or process may be served at the usual place of abode of such defendant, by delivering a copy of the writ or process, with any requisite notice to the wife of such defendant or to an adult person residing in the House, being a member or inmate of the family of such defendant; provided that such service shall not be deemed good service without the order of the Court out of which the writ or process issued, or a Judge thereof, upon affidavit shewing to the satisfaction of such Court or Judge the circumstances of such service, and that the place where the writ or process was served was at the time of such service the usual place of abode of such defendant.

All further as to writs 10 vic. c. 60
Non-bailable writs may be served at the Defendant's place of abode.

Repealed by 12 vic cap 59
Proof of service.

II. And be it enacted, That if any writ of summons shall be sued out against any Corporation, and such Corporation should not cause an appearance to be entered at the return of such writ, or within twenty days after such return, in every such case it shall and may be lawful for the plaintiff or plaintiffs in the action, upon affidavit being made and filed in the proper Court of the due service of such writ, to enter an appearance for such Corporation and to proceed thereupon in like manner as in personal actions against individuals.

Plaintiff may enter appearance for a Corporation duly served with a writ of summons and not appearing.

III. And be it enacted, That a defendant who shall have been held to bail upon any mesne process issued out of the Supreme Court in this Province may be rendered

Regulations as to rendering in discharge of