

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1786. Saint John, NB: J. Ryan, 1786.

26 George III – Chapter 42

An ACT for assessing, collecting and levying County Rates.

I. Be it enacted by the Governor, Council and Assembly, That the justices of the peace in the several counties in this province, where no goals or court-houses are already erected and finish'd in and for said counties, shall at their general or special sessions of the peace, have full power and authority to conclude and agree upon such sum or sums of money as upon examination of able and sufficient workmen shall be thought necessary for the building and finishing a public goal and a public court-house, in and for such counties respectively, and by warrant under their hands and seals, or under the hands and seals of the greater number of them, to be directed to the assessors of the several and respective towns by equal proportion to distribute and charge the sum or sums of money to be levied for the uses aforesaid upon the several towns or parishes in such counties respectively; and the assessors for the said towns or parishes respectively, shall apportion the quota of the said sum or sums of money so to be levied upon the respective towns or parishes, to be paid by the several and respective inhabitants of the said towns or parishes as they in their discretion shall think, just and reasonable, and the said assessors are hereby authorised and empowered to direct their precepts with a copy of such assessment or apportionment of the different sums so to be paid by the respective inhabitants, to the constables of the respective towns or parishes, for which such assessors are appointed, which constables are hereby authorized to levy and collect the same accordingly. Provided always, That it shall and may be lawful for any inhabitant of any town in case he shall so chuse, instead of paying the sum so to be assessed upon him, to contribute a proportion of labor at and after the rate of two shillings and six pence per day, allowing ten hours to each days work under the direction of such person as the said justices shall agree and contract with for the building such goal and court house who is hereby authorized to notify to the respective constables where such labor will be required, which labor so contributed, shall be a full discharge of the sums so assessed at and after the rate aforesaid.

II. And be it further enacted, That when any goal or court house or any public bridges or other works are to be repaired at the expence of any county in this province the justices of the peace in the several counties, shall at their general sessions of the peace upon the presentment of the grand jury at such sessions of the want of such reparation of the gaol, court house and bridges or other works, have full power and authority, if they think proper and convenient, from time to time to make rates and assesments for such sum or sums of money as they in their discretion shall think sufficient to answer all and every the purposes aforesaid in such proportions as is herein before directed to be in like manner assessed, levied and collected, and the said justices of the peace at their respective general sessions

are hereby authorized and empowered to covenant, contract and agree with any person or persons for the well and sufficient building, finishing or repairing such goals, court houses, bridges or other works as aforesaid.

III. And be it further enacted, That if any person or persons who shall not have worked as aforesaid, shall refuse or neglect to pay his or their assessment, by the space of ten days after demand or shall convey away his or their goods or estate whereby the sum or sums of money so assessed cannot be levied, then it shall and may be lawful to and for the said constables by warrant from any one of the justices of the peace in the county to levy the sum so assessed by distress and sale of the goods and chattels of such persons so neglecting or refusing to pay, who shall not have work'd as aforesaid, and the goods and chattels then and there found and the distress so taken to keep for the space of ten days, at the cost and charges of the owner thereof, and if the said owner do not pay the sum or sums of money so rated or assessed, within the space of the said ten days, then the said distress to be appraised by two or more of the inhabitants where the same shall be taken, or other sufficient persons, and to be sold by the said constable for payment of the said money, and the overplus of such sale (if any be) over and above the sum so assessed and charges of taking and keeping the distress, to be immediately returned to the owner thereof, and the respective constables are hereby required upon demand to pay such sum or sums of money as they shall have so received or collected into the hands of such person (being resident in such county where such rates shall be respectively made) whom the said justices at their general sessions, or the greater part of them then and there assembled, appoint to be the treasurer of the county (which treasurer they are hereby authorized and empowered to nominate and appoint) such treasurer first giving Security in such sum as shall be approved of by the said justices at such general sessions, or the greater part of them then and there assembled to be accountable for the several and respective sums of money which shall be respectively paid to them, in pursuance of this or any other act or law of this province, and to pay such sum or sums of money as shall be ordered to be paid by the justices at their general sessions, and for the due and faithful execution of the trust reposed in him, and all and every such sum or sums of money as shall be paid into his hands by virtue of this or any other act or law of this province, shall be deemed and taken to be the public stock, and the said treasurer shall and is hereby required to pay so much of the money in his hands to such person and persons as the said justices at their general sessions or the greater part of them then and there assembled, shall by their orders from time to time direct and appoint for the use and purposes of this act, and for any other uses and purposes to which republic stock of any county is or shall be applicable bylaw.

IV. And be it further enacted, That the said respective treasurers in the several counties shall and are hereby required to keep books of entries of the several sums respectively received and paid by them, and are also hereby required to delivered in true and exact accounts upon oath if required to deliver in true and exact accounts upon oath if required (which oath the said justices at their respective general sessions are hereby empowered to administer) of all and every the sum and sums of

money respectively received and paid by them, distinguishing the particular uses to which such sum or sums of money have been applied, to the justices at every general sessions respectively to be holden by them in the several counties, and shall lay before the justices at such sessions the proper vouchers for the same.

V. And be it further enacted, That the respective constables of the several towns or parishes, shall and they are hereby required to demand and levy such rates and assessments and to notify the inhabitants to work as aforesaid, in manner before directed, and shall account for the same before the said justices at their respective general sessions in the several counties if thereunto required, in like manner as the said treasurers are hereby directed to account; and in case such constables or any of them shall neglect or refuse so to demand, levy or account, then it shall and may be lawful to and for the said justices at their respective general sessions or the greater part of them, then and there assembled, to commit such constable or constables to the common goal of the county, there to remain without bail or mainprize, until he or they shall have caused such rates or assessments upon the persons who shall not have so work'd as aforesaid, to be demanded or levied, and shall have rendered a true account or accounts in the manner hereby directed, and in case it shall appear by such account or accounts that any sum or sums of money is or are remaining in his or their hands which he or they shall have received of the several persons in the town or parish for which he or they shall be respectively appointed, which ought to have been paid to the respective treasurer in order to be applied to the purposes aforesaid, and if he or they shall neglect or refuse to pay the same over into the hands of the respective treasurers or otherwise if thereunto required by order of the said justices at their respective general sessions or the greater part of them, then and there assembled, then it shall and may be lawful for the said justices at such their general sessions, or the greater part of them, then and there assembled, to commit such constable or constables to the common goal of the county, there to remain without bail or mainprize, until he or they shall have made full payment of the sum or sums of money that shall appear to be due on such account or accounts. And all the accounts and vouchers of the said treasurers and constables shall, after having been passed by the said justices at their respective general sessions be deposited with the clerk of the peace for the time being, of each county respectively, who is hereby required to keep them among the records of such county to be inspected from time to time by any of the said justices for such county as occasion shall require, without fee or reward.

VI. And be it further enacted, That the receipts of such respective treasurer shall be sufficient discharges to all constables, and the discharges of the said justices of the peace or the greater part of them by their orders made at their respective general sessions to such treasurer, shall be deemed and allowed as good and sufficient releases, acquittances or discharges in any court of law or equity, to all intents and purposes whatsoever.

VII. And be it further enacted, That it shall and may, be lawful to and for the said justices of the peace, at their respective general sessions, or the greater part of them

then and there assembled, to continue from time to time such treasurer in his office, so long as they shall see convenient, and to remove him at their pleasure, and appoint any other person in his place, and to allow him insisting on the same such reasonable sum or sums of money for his care and pains in the execution of such trust not exceeding fifteen pounds, by the year, as they in their discretion shall think fit, which they are hereby empowered to direct the payment of, out of the monies arising by the respective rates from time to time appointed to be made.

VIII. And be it further enacted, That in case the assessors of any town or parish shall at any time have reason to believe the said town or parish is overrated such assessors may appeal to the respective justices of the peace at their next general sessions against such part of the rate only as may affect the town or parish in which they serve such office, which justices or the greater part of them, then and there assembled are hereby authorized and empowered to hear and finally determine on the same. Provided nevertheless, That upon such appeal such rate shall not be quashed or destroyed in regard to any other towns or parishes assessed thereby.

IX. And be it further enacted, That no new rate shall be made until it shall appear to the said justices at their respective general sessions or the greater part of them, then and there assembled by the accounts of their respective treasurer or otherwise, that three fourths of the money collected by virtue of the preceding rate have been expended for the uses and purposes aforesaid.

X. And be it further enacted, That no action or suit shall be commenced or prosecuted against any person or persons who shall be employed in collecting or receiving any money in pursuance of this act on any rate or rates which shall be quashed or discharged on any certiorari to be brought in the supreme court for any money to be collected or received on any such rate or rates before such writ of certiorari shall be brought and allowed, and that justice may be done to such persons who shall pay towards any rate which shall be quashed or discharged the several sums of money which shall appear to have been paid by them on such rate either in the whole or in part more than they ought to have paid, shall be repaid or allowed to them in the next rate or rates which shall be made in pursuance of this act as if the same had been paid on such new rate or rates.

XI. And be it further enacted, That no writ of *certiorari* to remove any rates made in pursuance of this act or to remove any orders or other proceeding taken or made by the said respective general sessions, touching such rates, shall be taken out or granted, but upon motion to be made some time in the term next after the time for appealing from such rates or orders is expired, and upon making it appear to the court by affidavit or otherwise, that the merits of the question upon such appeal or orders will by such removal come properly in the judgment of the said court, and that no such writ of certiorari shall be allowed, until sufficient security be given to the respective treasurers appointed by virtue of this act in the sum of one hundred pounds to prosecute such writ of certiorari with effect, and to pay the costs to be ascertained by the court to which such rates, orders or proceedings, shall be

removed, in case such rates or orders shall be confirmed, nor shall any such rates, orders or proceedings be quashed or vacated for want of form only, and all charges attending such removal shall be defrayed out of that or any subsequent rate.

XII. And be it further enacted, That if any action or suit shall be commenced against any person or persons for any thing that shall be done in pursuance or by the authority of this present act, in every such case the action or suit shall be commenced within three months next after the fact committed, and not afterwards, and shall be laid and brought in the respective county in which the cause of action or suit shall arise and not elsewhere. And the defendant or defendants in such action or suit to be brought shall and may plead the general issue and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this act, and if it shall appear so to be done, or that such action or actions shall be brought after the time before limited for bringing the same as aforesaid, or shall be brought in any other county or place that then the jury shall find for the defendant or defendants, and upon such verdict, or if the plaintiff or plaintiffs shall be non-suited or discontinued, his, her or their action or suit after the defendant or defendants hath or have appeared or if upon demurrer judgement shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs and have the like remedy for the same as any defendant or defendants hath or have in other cases by law.