

*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 45

**An Act for appointing Commissioners of Sewers.**

I. Be it enacted by the Governor, Council and Assembly, That upon application of any proprietors of any marsh, low lands or meadow, the governor or commander in chief with the advice of his Majesty's council, may and is hereby authorized by commission to appoint such able and discreet persons as to him shall seem meet to be commissioners of sewers; in which commission such commissioners shall be authorized and empowered to convene and meet together from time to time as occasion may require, to consult, consider and devise means and methods for building, erecting or repairing such dams, dykes and wears as are or may be necessary to prevent inundations, and for the draining or drowing of marshes, swamps and other unprofitable lands and to employ labourers and workmen for such reasonable wages as may be agreed on for that purpose; and to tax and assess all such persons from time to time as shall or may be owners of such marshes, meadows, swamps or unprofitable lands as aforesaid, for defraying the expense thereof, having regard to the quantity of land of each person and benefits thereby to be received as equally as they can according to their best judgment: and also to appoint and swear a collector or collectors for collecting such assessments and paying the same to such persons as by said commissioners shall be appointed, with powers to distrain all such persons as shall neglect or refuse to make payment of his, her or their proportions assessed as aforesaid in like manner as is usually done in other cases by distress, and to call before them such collector or collectors to account for his or their trusts in regard to the premises, and likewise to value such repairs as may have been made to such dykes and wears by the proprietors before the date of their said commissions, and to apportion an assessment for the payment thereof by those who have been or may be benefited thereby in the same manner as if such repairs had been made by their own orders, which said commissioners shall be sworn to a faithful discharge of their duty, and may receive out of such assessment a reasonable compensation for their trouble, to be allowed by the governor and council to whom such commissioners shall be accountable.

II. And be it further enacted, That if no person shall appear to pay the quota or proportion of any delinquent proprietor in any assessment made as aforesaid for the dyking or draining such lands, and no sufficient distress shall be found to answer such assessment the commissioners of sewers or major part of them shall by advertisement during three months in the Royal Gazette published by the King's Printer, and in the office of the register of deeds and conveyances of land in such county, cause notice to be given for letting out the lands of such delinquent proprietor, and if no person shall appear to hire the same, it shall and may be lawful for the said commissioners or the major part of them by warrant under their hands and seals to order the sheriff to sell at public auction to the highest bidder, so much

of such delinquent's lands so dyked in and drained as may be sufficient to pay such proportion or quota due as aforesaid, with the charges of such sale, and such sheriff is hereby authorized and directed to execute a good and authentic deed to the purchaser or purchasers thereof their heirs and assigns.

III. And be it further enacted, That in all ordinary cases either in raising or repairing dykes or draining lands, each and every owner or possessor of marsh or low lands in this province where such commissioners, attend either himself or provide a sufficient laborer with proper tools to work at such time and place as by them shall be appointed, agreeable to the rules and regulations made for that purpose and according to the quantity or proportion of land belonging to such owner or proprietor, and where it may be necessary to employ oxen and carts each and every owner or possessor of such lands who have them, shall in like manner be obliged to attend with such oxen and carts for such work according to the discretion of said commissioners or shall forfeit and pay over and above his tax or assessment the sum of five shillings for every day's neglect and so in proportion for oxen and carts, to be recovered in any court proper to try the same, and the monies arising from such fines to be paid into the hands of the commissioners to be appropriated for repairs of such dykes.

IV. And be it also further enacted, That in case of any sudden breach in any dyke, or where the same is likely to be made, or inundation occasioned by high tides, storms or otherwise, each and every owner or possessor of land within such dykes, shall immediately on notice given by one or more of the commissioners, repair to the place directed with proper tools or teams, to labour and use their utmost endeavours to repair or prevent such breach, and shall continue to work from day to day, so long as the commissioners of sewers shall judge necessary, or shall forfeit and pay over and above their tax or assessment, the sum of ten shillings for each day's neglect, and so in proportion for oxen and carts, to be recover'd in manner and applied to the uses aforesaid.

V. And be it further enacted, That when the sod or soil shall have been cut off- the lands of any proprietor in any tract of marsh dyked in common with other proprietors, for the purpose of dyking in the same, or when the land of such proprietor shall have been washed away by the tide or current of the river, or when by means of making new dykes for securing the marshland so dyked in common, such proprietor shall have lost the whole or part of his lot, it shall and may be lawful for the commissioners of sewers to cause a just valuation to be made of such loss, by five disinterested freeholders who shall be sworn truly and impartially to value the same, and in case there be in such tract a sufficient quantity of land lying in common and undivided, to make good the loss so sustained, the commissioners shall deliver possession of so much thereof as is sufficient to make good the loss to such proprietor, by an assessment to the value thereof to be paid in a just and equal proportion by the other proprietors interested in such tract or piece of marsh land.

VI. Provided always, That any person aggrieved by any procedure of such commissioners may prefer his or their complaint by way of appeal to the governor and council for relief, at any time within six months, who are hourly authorised to grant redress, and on any groundless complaint, to tax double costs in favor of such commissioners.