

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1830.* Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1830.

10 & 11 George IV – Chapter 29 (Session 1)

**An Act to repeal certain Acts relating to Commissioners of Sewers; and to make more effectual provisions in lieu thereof. Passed 8th March, 1830.**

Whereas the Laws now in force for the appointment of Commissioners of Sewers, have been found ineffectual for all the purposes intended.

And whereas, It is expedient to repeal the same, and to make further and more effectual provisions therefor.

I. Be it therefore enacted by the President, Council and Assembly, That an Act made and passed in the Twenty-Sixth year of the Reign of His late Majesty King George the Third, intituled, "An Act for appointing Commissioners of Sewers;" also an Act made and passed in the Thirty-fourth year of the Reign of His said late Majesty King George the Third, intituled, "An Act in addition of an Act, intituled, An Act for appointing Commisioners of Sewers," be, and the same are hereby respectively repealed.

II. And be it further enacted, That upon applition of any Proprietors of any marsh, Low-lands, Meadow, or other unreclaimed Lands, 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 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 I means and methods for building, erecting, or repairing such Aboideaux [Aboiteau], Dikes and Wears, as are or may be necessary to prevent inundation, and for the draining or drowning of Marshes, Swamps, and other unreclaimed lands, either diked or undiked, 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 unreclaimed Lands as aforesaid, for defraying the expence thereof, having regard to the quantity and quality of Land of each person, and benefits thereby, to be received as equally as they can, according to their best judgment, and shall appoint a Clerk, by whom all Records, Entries, Notices, and other documents, shall be made and kept: 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 such Collector appointed as aforesaid, shall be entitled to levy for his services, a sum over and above such assessment not exceeding seven and a half per cent, on the amount of such assessment; the said sum so to be allowed for collecting, to be first regulated by the Commissioners, having regard to the amount to be collected; and to call before them such Collector or Collectors, to account for his or their trusts in regard to the premises; 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 services: Provided, the same shall not exceed the rate of Ten Shillings per day, for each and every Commissioner.

III. 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 diking 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 Wills 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 Land so diked 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 authenticated Deed to the purchaser or purchasers thereof, their Heirs and Assigns.

IV. And be it further enacted, That in all cases, either in erecting new Dikes or Aboideaux, or raising or repairing the same, or draining Marsh or low lands, the Commissioners of Sewers shall give at least six days previous notice of such repairs or draining as aforesaid by advertizing the same in three public places within the jurisdiction of such Commissioners. And upon such notice being given as aforesaid it shall be the duty of the owner or occupier of such Marsh or low lands to attend, either themselves or by sufficient labourers as the case may require, With proper tools to work at such time and place as by the said Commissioners shall be appointed, agreeably to the rules and regulations which are or may be 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, who are hereby authorized to sue for the said fines, to be appropriated for repairs of such Dikes.

V. And be it further enacted, That in case of any sudden breach in any Dike, 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 Dikes, 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 recovered in manner and applied to the uses aforesaid.

VI. And be it further enacted, that when the sod or soil shall have been cut off the lands of any proprietor or proprietors, in any track of Marsh diked in common with any other proprietor or proprietors, for the purpose of diking in the same; or when the land of such proprietor or proprietors shall have been washed away by the tide or current of the River; or when by means of making new Dikes for securing the Marsh land so diked 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; which valuation shall be levied and collected in like manner as directed in and by the second Section of this Act.

VII. And be it further enacted, That hereafter no Commissioners of Sewers already appointed or hereafter to be appointed by virtue of this Act, shall have power to proceed to dike in any body of Marsh, Low-lands, or Meadow, but upon the application or by consent and concurrence of the proprietors of at least one half of the quantity of such Marsh, Low-lands, or Meadow; or shall have power to drain any body of Marsh, Low-lands or Meadow, either diked or undiked, but upon the application of at least one half of the proprietors of the quantity of Marsh, Lowlands, or Meadow, to be benefited by any such Drain, so to be made.

VIII. And be it further enacted, That such Commissioners, upon making up any Bill of Assessment, shall state an Account of the Expenditures and Work done in diking or draining any such lands under their authority and direction; which Account shall be left with the Clerk, for the inspection of all persons concerned. And the said Commissioners shall also cause notice of such stated Account to be given to each Proprietor or agent, who may at the time be resident within the Parish where such Commissioners are acting, at least thirty days previous to issuing any warrant to distrain, to the intent that each proprietor may pay their respective quota previous to any such distress: And where any owner of Lands as aforesaid shall reside without the Parish, it shall be the duty of the said Commissioners to cause a schedule of such Proprietors so residing without the Parish, signed by their Clerk, shewing the amount due from each person being so absent as aforesaid, and to be posted up, at least thirty days previous to their advertising for letting out the Lands of such delinquent Proprietors, at three public places in the said Parish, and also at the County Court House.

IX. And be it further enacted, That in all cases where land shall be reclaimed and enclosed by Dikes or Aboideaux, erected Without other Dikes or Aboideaux, and which shall be found to benefit the Proprietors of the Lands first diked as aforesaid, by securing more effectually such Lands, the Commissioners of Sewers now appointed, or to be hereafter appointed, under and by virtue of this Act, are hereby authorized and empowered to tax and Assess all persons having lands enclosed by any former Dikes or Aboideaux, and who are benefited by any such Dikes and Aboideaux, made without as aforesaid, according to the best discretion of such Commissioners, and such Assessment to be collected, paid and Accounted for, in the same manner as other assessments are, in and by the second Section of this Act.

X. And whereas, it is expedient that any grievance which may be suffered under this Act be redressed in the most easy and expeditious manner:

Be it therefore further enacted, That whenever any person shall be aggrieved by any procedure had or made, by such Commissioners, or any others in pursuance of this Act, such person aggrieved may appeal therefrom to the Supreme Court or Court of *Nisi Prius*; which said Courts or either of them may grant redress. Provided, Notice of such appeal, with the grounds thereof, be given to the adverse party, at least twelve days previous to such hearing by Appeal.