

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1837.* Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1837.

7 William IV – Chapter 7 (Session 1)

**An Act to provide for the collection of County and Parish Rates. Passed 1st March 1837.**

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That whenever the Justices of the Peace for the several Counties in this Province shall, under and by virtue of any Act or Acts of the General Assembly for that purpose made or to be made, order any sum or sums of money to be raised, levied and assessed, for the purpose of defraying any County, Town or Parish charge or expense, it shall be the duty of the Clerks of the Peace for the respective Counties to make out the warrants, under the hands of such Clerks respectively and the seal of the said Court, for assessing such sum or sums of money so ordered to be raised as aforesaid, and within fourteen days from the date of the order for the assessment to transmit such warrants to the assessors of rates for the several Towns or Parishes in the said Counties respectively, under the penalty of ten pounds for each and every neglect.

II. And be it enacted, That it shall be the duty of the said assessors, without delay, after receiving the said warrants of assessments, to make a rate and assessment on their respective Towns or Parishes, in such manner as shall be authorized by the Laws then in force, and within forty five days to deliver to the several collectors of rates within the respective Towns or Parishes a list containing the christian and surname of all persons rated within the several districts to which the said collectors may have been appointed, with the several amounts to be collected from every such person, such lists being signed by the said respective assessors, and having endorsed thereon a precept under their hands in their form following, that is to say

To A. B. one of the Collectors of Rates in the Town or Parish of \_\_\_\_\_, or to any other Collector of Rates in the Town or Parish of \_\_\_\_\_.

You are hereby required forthwith to collect from the several persons named in the annexed assessment, the sums set against their names respectively, under the last column thereof, intituled *Total Assesment*, amounting in the whole to the sum of \_\_\_\_\_, and to pay the same when collected into the hands of County Treasurer, [or Overseer of the Poor, or otherwise as the case may be]. Given under our hands the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_.

And further it shall be the duty of the said assessors to make out a duplicate of all and every of their respective assessments, and to transmit the same together with the warrant of assessment within ten days to the Clerks of the Peace of their respective Counties, to be filed of record; and if any assessor shall neglect or omit to perform the duty herein required of him he shall be liable to the penalty of ten pounds.

III. And be it enacted, That it shall be the duty of the several collectors of rates in the several Towns and Parishes, without delay after the receipt of such assessment and precept as aforesaid, to demand the several sums contained in the said list, of the several persons therein named, and shall if required give a written statement shewing the several amounts assessed on such person and such collectors shall on the first Monday in every month, pay over to the person or persons authorized by law to receive the same the several sums of money which may have been received by such collectors during the preceding month, with a list of the persons from whom the same may have been received; and upon neglect or refusal of any person or persons to pay the amount demanded of him or them, the said collectors shall within ten days after such demand proceed against such person or persons so neglecting or refusing, according to the powers hereinafter given to the said collectors, and also within four months after the receipt of the precept for collecting the said assessment, render to the Clerk of the Peace, under oath, a full and true account of all and every sum or sums of money, which may have been received by them on account of the said assessments, with proper vouchers for all sums paid by them, and also a correct list of all defaulters in paying their said assessment; and if any collector shall neglect, refuse or omit to pay over the several sums so collected as aforesaid, on or before the days appointed therefor, or to proceed against all or any of the defaulters as aforesaid, or to render such account or list as aforesaid, it shall and may be lawful for the Justices of the Peace in the respective Counties, at any General Sessions or at any special Sessions, or the major part of them then and there assembled, to order such collector to be brought before them; and the constable or other officer who may serve such order is hereby empowered to arrest his body and bring him forthwith before the said Justices, and thereupon, if they see fit, to commit such collector to the common gaol of the County, there to be and remain, without bail or mainprise, until he shall have made full payment and satisfaction for all and every such sum or sums of money as may have been received by him, and shall have rendered a full and correct account of the collections made by him, with the list of defaulters as aforesaid and whether proceeded against, or not, unless the said Justices, for some sufficient cause shewn by such collector, may deem it proper sooner to discharge him.

IV. And be it enacted That if any person assessed within any Town or Parish shall refuse or neglect to pay the amount of his or her assessment, by the space of ten days next after such demand as aforesaid, then and in such case it shall be the duty of the collector of takes for the district where such demand was made to make application to any Justice, which Justice is hereby required, upon complaint made to him under oath by such collector that the amount assessed upon any person has not been paid as aforesaid, and that demand had been made as required by the third section of this Act, to issue warrant of distress and execution against the party complained of, in the form following:

County ss.

To any constable of the Parish of \_\_\_\_\_. You are hereby required to levy of the goods and chattels of A. B. within your Parish, \_\_\_\_\_, which sum has been assessed upon \_\_\_\_\_, and also \_\_\_\_\_ costs, amounting in the whole to \_\_\_\_\_ besides costs of levying this execution, and have the money before me at my dwelling house on the \_\_\_\_\_ day of \_\_\_\_\_, to be rendered to C. D. Collector of Taxes for the district of \_\_\_\_\_; for want of goods and chattels whereon to levy you will take the

body of the said A. B. and deliver \_\_\_\_\_ to the keeper of the gaol of the said County, and the said keeper will take the said A. B. and him safely keep for \_\_\_\_\_ days, unless the said and costs be sooner paid, and how you shall have executed this precept, make return to me at the day and place aforesaid. Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_.

E. F. Justice of the Peace in the County of \_\_\_\_\_.

And the constable to whom any execution as aforesaid shall be delivered, shall forthwith proceed to levy the same, in the same manner as is provided for the levying executions in an Act made and passed in the fourth year of his present Majesty's reign, intituled "An Act to regulate proceedings before Justices of the Peace in civil suits:" Provided always, that no person so committed to gaol shall be liable to be detained more than one day for every two shillings of the amount assessed and costs required by such execution to be levied, or more than fifty days in the whole if the amount exceed five pounds; and every person so committed shall be entitled to his discharge at the expiration of such time; and provided further, that notwithstanding the discharge of the defendant as aforesaid, the judgment upon which such execution issued shall remain good against the property of the defendant, and a new execution may be issued against his property in like manner as if he had not been imprisoned.

V. And be it enacted, That there shall be allowed to the assessors and collectors respectively in the several Towns and Parishes, such compensation or fees for their services as the Justices of the Peace for the several Counties shall, at their General Sessions at which each respective assessment is ordered, deem reasonable, and then and there order and establish: Provided always, that no assessors shall in the whole be allowed at a greater rate than five per cent, and no Collector at a greater rate than ten per cent, on the amount ordered to be assessed: Provided also, that no assessors shall be allowed a per centage unless the provisions of the second section of this Act shall have been fully complied with, and no collector shall be allowed a per centage on any greater sum than he may actually collect and pay over, nor be entitled to receive such per centage until he shall have collected the whole amount mentioned in the precept to him directed, or assigned sufficient reasons, satisfactory to the Sessions, for not collecting the same, nor until such collector shall have rendered a full account, shewing the amounts received and paid by him, and a correct list of all the defaulters in his district, as is provided in and by the third section of this Act.

VI. And be it enacted, That a sum equal to the per centage on the several amounts ordered to be assessed as aforesaid, shall be included in every assessors warrant, for defraying the expenses of assessing and Collecting, and when collected shall be paid into the hands of the respective County Treasurers for the purpose of paying the assessors and collectors, as the Justices may by their order in Sessions from time to time direct.

VII. And whereas it is difficult in most cases for the assessors to apportion the rate or assessment to be made by them, so that the total amount thereof shall correspond with the exact sum ordered to be assessed; Be it enacted, That in all assessments for Town or Parish rates, now made or hereafter to be made, such assessment shall be deemed and taken to be legal, although the

aggregate amount thereof shall exceed the sum ordered to be assessed; provided the difference shall not be more than ten per cent on the sum so ordered.

VIII. And be it enacted, That the Justices of the Peace in the several Counties in this Province, shall at their General Session in each year at which Town or Parish officers are appointed have power and authority, and they are hereby required, to nominate and appoint three or more fit persons to be assessors, and one or more fit person or persons to be collectors of the several rates or assessments which may be ordered to be made on the several Towns or Parishes in each respective County, which person shall be styled Assessors or Collectors of Taxes (as the case may be) for the Town or Parish for which they may have been appointed as aforesaid; and every such assessor or collector shall, within ten days after receiving notice of such his appointment, notify the Town Clerk of his acceptance of the office, and be sworn to the faithful discharge of his duty before such Justice of the Peace, who shall forthwith transmit to the Clerk of the Peace of the County a memorandum that such oath hath been administered; and if any person so appointed shall refuse to accept of the office or neglect to be sworn as aforesaid within the time specified for that purpose, he shall be liable to the penalty of two pounds, except in the City of Saint John and Parish of Portland, which shall be ten pounds for any such neglect or refusal; and upon such refusal or neglect as aforesaid, or upon any vacancy occasioned by the death or removal from the Parish of any assessor or collector appointed as aforesaid, it shall and may be lawful for any two Justices of the Peace for the County, when such vacancy may occur, forthwith to appoint another fit person to fill the office of the person so refusing, dying or removing as aforesaid; and the person so appointed shall be notified by the Town Clerk of such appointment, and shall be liable to the like penalties for refusing or neglecting to accept of the office, and to be sworn in within ten days after such notification, as if he had been appointed by the Sessions as aforesaid; and in case of such refusal or neglect, it shall and may be lawful for the said two Justices or any other two to appoint another fit person or persons to fill the vacancy thus occasioned until some person may be found who will accept of the office; and it shall be the duty of the Town Clerk of any Town or Parish to give notice to the nearest Justice of the Peace of the neglect or refusal of any assessor or collector to accept of the office, under the penalty of two pounds; Provided always, that the appointment of assessors and collectors of taxes in the City of Saint John shall be and remain with the Mayor, Aldermen, and Commonalty of the city of Saint John as heretofore accustomed.

IX. And be it enacted, That the several and respective penalties imposed by this Act shall and may be recovered upon complaint made to any one of His Majesty's Justices of the Peace for the County where such offence shall be committed, upon the oath of one or more credible witness or witnesses, and levied as is provided in and by an Act made and passed in the fourth year of His present Majesty's reign, intituled "An Act to facilitate summary proceedings before Justices of the Peace, and the execution of warrants by constables," and paid into the hands of the County Treasurer for the use of the County.

X. And be it enacted, That the fees to be taken by Justices of the Peace shall, be as follows:

For every affidavit of collector, including the oath, one shilling.

For every warrant of distress, &c. ninepence.

And the fees to constables for serving each and every warrant of distress and sale, the same as are now allowed to constables under the Act to regulate proceedings before Justices in civil suits.

XI. And be it enacted, That the operation of the third section of an Act made and passed in the twenty sixth year of the reign of His Majesty King George the Third, intituled "An Act for assessing, collecting and levying County rates," except so much as relates to the appointment and duties of County Treasurers, and also the operation of the fifth and sixth sections of the said recited Act be and the same is hereby suspended while this Act shall continue and be in force.

XII. And be it enacted, That the receipts of the respective County Treasurers, or other persons authorized to receive the monie collected shall be sufficient discharges to all collectors, and the discharges of the 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 and discharges in law or equity.

XIII. Provided always and be it enacted, That when any Clerk of the Peace, assessors or collector may have neglected to perform any of their said duties within the time prescribed by this Act, it shall nevertheless be lawful for such clerk, assessors or collectors to perform such duty after the time so prescribed, and all such subsequent proceedings shall be held and deemed good and valid to all intents and purposes as if done within the said prescribed period.

XIV. And be it enacted, That all assessments now made, or which shall be made before the passing of this Act, shall continue and be in force in the same manner as if this Act had not been made.

XV. And be it enacted, That this Act shall continue and be in force until the first day of April which will be in the year of our Lord one thousand eight hundred and forty.