

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1853.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1853.

16 Victoria – Chapter 28

**An Act relating to the escheating of Mining Licences or Leases, and also of Mill Reserves, and recovery of Crown Debts. Passed 3rd May 1853.**

Whereas, where the conditions of Mining Licences or Leases, or Mill a Reserves, have not been complied with, and the same are in consequence liable to forfeiture under the existing law, to effect the Escheat it is frequently necessary to proceed by *Scire Facias*; it is therefore desirable to provide some more easy and less expensive mode of effecting this object;

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

1. From and after the passing of this Act, any Mining Licence or Lease, or Mill Reserve, may be escheated in manner following, that is to say:—Upon its being reported by the Crown Law Officers to His Excellency the Lieutenant Governor in Council, that the conditions of such Mining Licence or Lease, or Mill Reserve, have been broken or not complied with, and that such Lease, Licence, or Mill Reserve, is therefore liable to forfeiture, it shall and may be lawful for His Excellency the Lieutenant Governor in Council to direct the Attorney General, or in his absence the Solicitor General, to give notice to the Lessee, Licencee or Reservee, of the grounds of the alleged forfeiture, with notice thereunder that unless such Lessee, Licencee or Reservee shall, within a period to be named in such notice, which shall not be less than thirty days after service of such notice, make it appear to the satisfaction of the Lieutenant Governor in Council that he has not been guilty of the breaches of the conditions or grounds of forfeiture charged in such notice, the Lieutenant Governor in Council is hereby authorised and empowered in his discretion to escheat and annul such Lease, Licence, or Mill Reserve, upon such equitable conditions as His Excellency in Council may deem right, and to cause a record thereof by Order in Council to be made in the Office of the Provincial Secretary under the Great Seal, which record, or a certified copy thereof, under the hand of the Provincial Secretary, shall be good and legal evidence of such escheat in all Courts of Law or Equity, any law, usage or custom to the contrary notwithstanding.

2. Provided always, that in any case where the Licencee, Lessee or Reservee, as the case may be, shall in person or by Attorney appear on or before the day fixed in such notice, and require the usual and common law mode of escheating by *scire facias* to be pursued, in such case it shall and may be lawful for the Lieutenant Governor in Council, and he is hereby required to direct and allow such proceedings to be adopted, upon the party or parties proceeded against entering into a bond with two sufficient sureties in the penal sum of fifty pounds, conditioned for the payment of all expenses of the proceedings of such escheat, in case such should be effected.

3. Whereas it is necessary that some more simple and less expensive mode should be provided for the recovery of Crown Bonds and other debts due to the Crown, whether on specialties or simple contract, where the amount to be recovered shall not exceed twenty pounds;

From and after the passing of this Act it shall and may be lawful for Her Majesty's Attorney General or other prosecuting officer, to proceed in the name of Her Majesty against the Crown debtor in all cases where the demand does not exceed twenty pounds, under the Act passed in the twelfth year of the Reign of Her present Majesty, intituled *An Act to consolidate and amend the several Acts of Assembly relating to Summary Actions*, which Act is hereby extended and made applicable to the Exchequer or Crown side of the Supreme Court, for the recovery of all Crown debts where the amount shall not exceed twenty pounds, so far as the same is applicable, in all respects as if the said recited Act had originally extended to the Exchequer side of the said Court, and been made applicable to the recovery of such Crown debts; and the costs shall be the same in all respects, and recoverable in like manner, any law, usage or custom to the contrary notwithstanding.

4. No *scire facias* shall be necessary for the establishment of Crown debts, under the provisions of this Act; and the lands of the debtor shall be held bound in cases of specialties from the date thereof, which date shall be set forth in the proceedings and judgment; and in cases of simple contract debts the lands of the debtor shall be held bound from the date of the judgment being signed.

5. Execution against the goods and chattels, lands and tenements of the debtor, shall issue for the recovery of the debt for which judgment is given at the suit of Her Majesty; and it shall be the duty of the Sheriff or other officer levying such execution, for want of goods and chattels, to levy upon the lands of the debtor bound by the specialties or judgment, whether in the hands of such debtor, his assignee, or otherwise.

6. Service of process, or other writ issued under the provisions of this Act, shall be made in like manner as against other debtors, and according to the rules and practice of the Supreme Court in other cases; and in case the debtor or debtors proceeded against should be out of the Province, and have or have not a known place of abode therein, service shall be effected as is provided by an Act passed in the second year of the Reign of His late Majesty King William the Fourth, intituled *An Act to regulate the service of Writs of Scire Facias*.