

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1862. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1862.

25 Victoria – Chapter 27

An Act relating to lands, tenements and hereditaments held for public uses by the Justices of the Peace of the several Counties in this Province. Passed 23rd April 1862.

Section.

1. Justices in unincorporated Counties may distrain for rent.

Section.

2. Judgment may be entered, or Decree made against Justices.

Whereas the Justices of the Peace of the several Counties in this Province are authorized and empowered to hold lands, tenements and hereditaments for public uses, and to bring and maintain actions of trespass and of ejectment relating the same; but doubts have arisen whether such Justices of the Peace are legally invested with the right to distrain for rents due, or to institute or maintain proceedings at law for the recovery of such rents, or for the use and occupation of such lands, tenements and hereditaments, or of ferries or rights of ferry, or other incorporeal hereditaments to which they may be legally entitled; and it is expedient that such doubts should be removed;—

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

1. That it shall and may be lawful for the Justices of the Peace of the several Counties in this Province, by the name of 'The Justices of the Peace of the County of _____,' (as the case may be,) to distrain for rents to accrue due to them as such Justices after the passing of this Act, and by the same name shall and may institute and maintain proceedings at law for the recovery of such rents, or for the use and occupation, after the passing of this Act, of any lands, tenements or hereditaments, or of any ferries or rights of ferries, or other incorporeal hereditaments to which they are by law entitled; and at their respective General Sessions of the Peace to make such general orders from time to time as they may deem expedient, regarding the instituting, maintaining, and conducting of proceedings at law or equity by bill, action of ejectment, trespass, use and occupation, or otherwise, or by distress, for recovering the possession of or damages for trespasses upon or rents to accrue due out of any lands, tenements or hereditaments, or out of any ferries or rights of ferry, or other incorporeal hereditaments, to which lands, tenements or hereditaments, corporeal or incorporeal, such Justices of the Peace now are or hereafter may be entitled under or by virtue of any Grant or Letters Patent from the Crown, or Act of the General Assembly, or of any deed of bargain and sale, or otherwise howsoever, or relating to the defence of any action or suit at law or equity against such Justices of the Peace; and it shall be the duty of the several Clerks of the Peace in their respective Counties to obey and perform such order; and to conduct such proceedings, or cause them to be conducted according to the same; and by the name aforesaid, an Attorney or Attorneys for that purpose to nominate and appoint; and in all cases of distress for rent, to appoint a bailiff or bailiffs; and as such Clerk of the Peace, to sign all

such warrants, notices, or other documents as are or may be necessary for or incidental to the instituting, maintaining, conducting or concluding such proceedings; the warrant of distress, or to institute proceedings, or to defend, shall be in all cases prima facie evidence of an order of Sessions; and all moneys to be recovered by the authority of this Act shall be forthwith paid over to the County Treasurer, subject to the order of the Justices in Session as aforesaid; provided always, that nothing in this Act contained shall extend to or affect, or be construed to extend to affect or apply to any incorporated Counties.

2. In all cases in which, under the provisions of the first section of this Act, a right of action or of any legal remedy is given to the Justices of the Peace of any County in this Province, against any person or persons whomsoever, and in which cases any liability should attach, or be supposed to attach to such Justices of the Peace, either in law or equity, such person or persons may institute proceedings at law or in equity, as the exigency of the case may require, against such Justices of the Peace, by the name of 'The Justices of the Peace of the County of _____,' (as the case may be,) and service of the first process and of all other papers necessary for carrying on such suit at law or equity, according to the practice of the Court in which such proceedings may be instituted, may be made upon the Clerk of the Peace of the County, and judgment may be entered up, or decree made against such Justices, by the name aforesaid; and it shall be the duty of such Justices at their General Sessions of the Peace next after the signing of such judgment, on memorial of the same filed with the Clerk of the Peace, to order and direct the payment of such judgment out of the County funds, and the same may be included in any assessment on the County, to be assessed, levied and collected in like manner as other County Rates.