

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 29

An Act to explain and amend Chapter 67, Title x, of the Revised Statutes, 'Of Sewers.' Passed 23rd April 1862.

Section.	Section.
1. Power of Commissioners.	6. Commissioners to make assessments when necessary.
2. Compensation to proprietors.	7. Chapters 67, 68, and 69, Title x, in part repealed.
3. Commissioners not assessing damages; remedy.	8. Not to apply to German Town Lake Forms.
4. Warrant of distress, how collected.	
5. Jury to be sworn; their duties.	

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

1. That the Commissioners of Sewers appointed or elected under Chapters 67, 68, and 69, Title x, of the Revised Statutes, 'Of Sewers,' shall have power and authority, by and with the consent of the proprietors of a majority of acres to be benefited, to cut through and appropriate so much of any body or district of marsh bog on low lands as may be required for cutting any canal or ditch, and for making any dyke thereon; for draining or flooding any body of marsh, bog, lake, or low lands, that now is or may be under their supervision, by the provisions of the said recited Act.

2. In case any proprietor shall be injured more than benefited by the cutting of any such canal or ditch through his marsh or land, or in making any dyke, the Commissioners shall make compensation to such proprietor for the same; and in case they cannot agree, the valuation shall be made by five disinterested freeholders to be summoned in the following manner:—

The Commissioners shall apply to a Justice of the Peace in writing for Precept (C) to be directed to a Constable, requiring him to summon a Jury of five disinterested freeholders, to ascertain and value the damages sustained by any proprietor: It shall be the duty of the Constable to summon such jury according to the exigency of the said precept: The Constable shall give the proprietors or person interested in such assessment a copy of such precept two days before the time appointed for making, such assessment.

3. In case the Commissioners shall neglect or refuse to have such damages assessed as aforesaid, for the space of three months from the time the land shall be so taken, the proprietor or person whose land has been taken may apply to a Justice in the same manner as hereinbefore provided for the Commissioners.

4. That upon the Warrant of distress (A) being issued against any delinquent proprietor, the Collector shall proceed thereon and collect the same in the manner and be authorized and

empowered to collect the same fees thereon as directed by Chapter 137 of the Revised Statutes, for the collection of execution issued by Justices of the Peace in civil suits; and upon the said Collector returning to the Clerk such distress as unsatisfied in whole or in part, the Clerk shall advertise for three months, or in case of a non-resident proprietor, six months, in some newspaper published in the County, or if no newspaper be published in the County, in the Royal Gazette, a notice in the form (B), that at the time and place mentioned in such notice, the Clerk shall lease or sell at public auction to the highest bidder, the said land specified of such delinquent proprietor, and under his hand and seal execute a lease or deed of the same, and shall make affidavit annexed to the said conveyance that the requirements of the law have been complied with, to the best of his knowledge and belief; and upon such conveyance being duly recorded in the Registry of Deeds for such County, the said conveyance will thereupon have the same effect as if the deed had been executed by the delinquent proprietor: That any such notice (A) under the hand of the Clerk being recorded in the Registry of Deeds, will thereupon give the Commissioner a lien upon the said land for the amount of the assessment and all costs incurred in obtaining payment. That there be allowed for Warrant of distress and other proceedings—

Fees to Clerk on Warrant of distress,	-	£0	2	6
Each notice of sale,	-	-	-	0 2 0
Selling land,	-	-	-	0 2 0
Deed and affidavit,	-	-	-	0 2 0
Cash actually expended for advertising and registering.				

5. The jury shall, in determining any damage, consider the benefits, present or prospective, which have accrued or may accrue to any proprietor by the making of any such ditch or canal, and the jury shall be sworn to the faithful discharge of their duty by a Justice of the Peace.

6. The Commissioners shall have power to make assessments from time to time, as any work is being proceeded with, and shall settle and arrange as far as possible any dyke or road accounts every three years, or more frequently at their discretion; all other accounts to be settled up and adjusted by the Commissioners before their term of office expires.

7. All the provisions of the hereinbefore recited Acts inconsistent with this Act are hereby repealed.

8. This Act shall not extend or apply to the drainage of German Town Lake, or any act or proceeding relating thereto.

FORMS.

A

To A. B., Collector of the Commissioners of Sewers for the _____.

Distrain the goods and chattels of E. F. in any part of the County of _____, for _____ pounds, being amount of assessment upon the marsh lands of the said E. F. in District No. ____, [as the case may be, describing the land assessed] and proceed thereon according to law.

G. H., Clerk of Com'rs of Sewers.

B

Commissioners of Sewers in the County of ____.

Whereas a body of marsh _____ situate in the Parish of _____, in the County of _____, District No. ____, was assessed by the said Commissioners, and a Warrant of distress issued against E. F. the delinquent proprietor, and delivered to the Collector, which Warrant has been returned unsatisfied; and whereas the said assessment still remains unpaid, notice is hereby given, that the said described land, or such part thereof as may be necessary, will be leased or sold at _____ in said County, on _____ the ____ day of _____ next, between the hours of twelve and two o'clock p. m., to pay such assessment and expense.

G. H., Clerk of Com'rs of Sewers.

C

To any Constable of the Parish of _____.

You are required to summon a Jury of five disinterested freeholders to assess and value the damages sustained by A. B. for lands taken by the Commissioners of Sewers, situate in District No. ____ in the Parish of _____; the said Jury to attend at [place to be named] on the ____ day of _____ next, at the hour of _____ o'clock.