

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1865.* Fredericton, NB: G. E. Fenety, Printer to the Queen's Most Excellent Majesty, 1865.

28 Victoria – Chapter 3

**An Act to amend the Law relating to the collection of Taxes and small Debts in the Parish of Portland, in the City and County of Saint John, and for other purposes in the said Parish; and also to limit the jurisdiction of the Police Magistrate for the European and North American Railway, and of non-resident Justices in Civil Actions. Passed 31st May, 1865.**

Section.

1. Police Magistrate to receive all Taxes, (exception.) To give security for himself Agents.
2. Prescribes mode for recovery of Taxes.
3. To what the Receiver shall be subject to; what remuneration intitled to.
4. All Acts inconsistent repealed.
5. Provides for lighting the streets; expenses, how to be defrayed.
- 6, 7. Provides for supression of disorderly houses, and states penalty.
8. States penalty for three or more persons obstructing passage way.

Section.

9. Penalty for committing nuisances on streets, &c.
10. Penalty for incumbering streets.
11. Penalty for removing horses, &c., or leaving vehicles on streets.
12. Penalty for mutilation of erections in Cemeteries, or disturbing persons therein.
13. Extends powers of Police Magistrate.
14. What fees taxable by Police Magistrate, &c.
15. Limits jurisdiction of Police Railway Magistrate.  
Form of Execution.

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

1. The Police Magistrate for the time being in and for the Parish of Portland, in the City and County of Saint John, shall be, from and after the first day of March next ensuing the passing of this Act, the Receiver of all Rates and Taxes, (excepting such as now are or hereafter may be imposed or made payable for Sewerage and Water Supply,) assessed in and upon the said Parish, and the inhabitants or non-residents thereof, any law to the contrary notwithstanding; and before entering on his duties as such Receiver, shall give security to the satisfaction of the Sessions for the City and County aforesaid, for the due application of all moneys collected by him or by his agents or employees, and for the faithful discharge of his duties as such Receiver.
2. If any person legally assessed for rates and taxes in the said Parish of Portland shall neglect or refuse to pay in to the office of the said Police Magistrate in the said Parish, the amount so assessed upon him, within ten days after notice in writing of the nature and amount thereof being given to him, either by being delivered to him personally or left at his usual place of abode, or if the person so assessed be not resident in the said Parish, then after like notice inserted for three successive weeks in any public newspaper published in the City of Saint John aforesaid, the said Receiver of Rates and Taxes shall issue Execution (A) against such person, which shall be enforced by any Policeman or Constable of the said Parish, throughout the said City and County of Saint

John, according to the tenor thereof; provided always, that proof of the due service or publication of such notice and non-payment of the amount stated therein, shall first be made to the satisfaction of such Receiver of Rates and Taxes as aforesaid, and that no person arrested under and by virtue of such execution shall be confined more than one day for every forty cents of the whole amount contained therein.

3. The said Receiver of Rates and Taxes shall be subject to all the provisions of the Revised Statutes, and subsequent Acts of Assembly, applicable to Collectors of Rates, not inconsistent with this Act, and shall receive such remuneration for his services as the Sessions under the thirty second Section of Chapter fifty three of the said Revised Statutes, shall appoint and allow: and the like or a proportionate amount upon all special rates and assessments which shall or may be collected by him according to law; and in addition to such remuneration, shall he entitled to charge and receive on every execution issued by him thirty five cents, and for enforcing and levying the same twenty cents, which fees shall be endorsed on the execution, and added to the amount to be levied under the same, and when received shall be paid in to the Treasurer of the Portland Police District, in the same manner and for the same purposes as are all other fees received by the said Police Magistrate.

4. All the Sections, clauses and provisions of the twenty sixth Chapter of twenty sixth Victoria, intituled *An Act to repeal an Act made and passed in the twenty fifth year of the Reign of Queen Victoria, intituled 'An Act for the alteration and amendment of the local government of the Parish of Portland, in the County of Saint John, and make other provisions in lieu thereof,'* at variance or inconsistent with this Act, are hereby repealed.

5. The Commissioners of Police in and for the said Parish are hereby authorized to adopt such measures as they may from time to time deem necessary for lighting the Streets of the said Parish; and shall, at the time of making their annual estimate, under the forty fourth Section of eleventh Victoria, Chapter twelve, for the maintenance of the Police establishment, make in like manner an estimate of the amount necessary during the year for all the expenses of such lighting of the Streets, including the erection of lamp posts and lamps where needed, and shall include such amount in the Warrant issued by them under the forty fifth Section of the said last mentioned Act, and such amount shall be assessed and levied as provided by the said Section for the rate or assessment for the said Police establishment; and the whole amount of such assessment shall be collected as by this Act provided, and not under the said forty fifth Section.

6. It shall be the duty of the several policemen belonging to the Force in the said Parish, to report to the said Police Magistrate all bawdy or disorderly houses in the said Parish; and upon information made upon oath before him by any policeman or other person, the said Police Magistrate shall issue his warrant to apprehend and bring before him any person suspected of being the keeper of any such house, to answer the charge of keeping the same.

7. The Police Magistrate, with any two Justices of the Peace for the City and County of Saint John, shall have power thereupon to try such person for any such offence, and if they shall find him guilty thereof, to impose upon him a fine of not less than fifty nor more than one hundred

dollars at their discretion, and for non-payment thereof, to commit him to the common gaol or Provincial Penitentiary for a term not exceeding three months.

8. Three or more persons shall not stand together in a group, or near each other on or near any sidewalk or crossing of any Street in the said Parish of Portland, in such a manner as to obstruct a free passage for foot passengers, or after being requested to move on by a Magistrate, policeman or other peace officer of the said Parish, under a penalty not exceeding eight dollars for every offence, to be recovered in like manner as any penalties imposed under Chapter twelve of eleventh Victoria.

9. Every person who shall within the said Parish cast or throw, or cause or permit to be cast or thrown into or upon any highway, public street, place, alley, or thoroughfare, any dirt, litter, or rubbish, or any slops, wash, foul or dirty water of any description, or cause or permit such water to fall, flow or ooze into or upon such highway, street, place, alley, thoroughfare, or any part thereof, shall for each offence be liable to a penalty of not more than eight dollars, to be paid by the party offending, or the owner or occupier of the premises from which the same may have been cast, thrown, or permitted to fall, flow, or ooze as aforesaid, and be recovered and applied in like manner as any penalties imposed by Chapter twelve of eleventh Victoria.

10. Every person who shall put or deposit, or cause to be put or deposited in or upon any highway, public street, place, or thoroughfare, or in or upon any lane or alley within the said Parish of Portland, or within the Parishes of Simonds or Lancaster, any timber or lumber of any kind, or any goods, wares, or merchandize, or any crate, box, barrel, hogshead, bale, or other incumbrance or obstruction of any kind or description whatever, shall be liable to a penalty of not more than eight dollars for each offence, and a further penalty of not more than five dollars for every twenty four hours that he shall cause or allow any such incumbrance or obstruction to be and remain as aforesaid, after the imposition of the first penalty as aforesaid; the said penalties to be recovered before the said Police Magistrate as in the last Section mentioned, and applied as other penalties of a similar nature are by Law applied in any of the said Parishes in which the offence may be committed.

11. Any person found removing a horse or horses or other animal from, and leaving any sled, sleigh, waggon, or cart or other vehicle in or upon any highway, street, place, thoroughfare, alley, road or bye road within the said Parish of Portland, so as in any manner to obstruct the same, may be arrested by any policeman or peace officer of the said Parish, and brought before the said Police Magistrate, and summarily fined in the same manner as in the last two Sections mentioned.

12. If any person shall wilfully destroy, mutilate, injure or remove any tomb, monument, grave stone, fence, railing, or other structure, or any tree, plant or shrub in any Cemetery or burial ground in the said Parish, or disturb any persons assembled therein for the purpose of interring any corpse, or commit any nuisance, or be guilty of any of the offences mentioned in the thirteenth Section of the twelfth Chapter of eleventh Victoria, within such Cemetery or burial ground, he shall be liable to the like penalty as in the said thirteenth Section is imposed for such offences, to be recovered and applied in like manner.

13. The said Police Magistrate of the said Parish of Portland, sitting at the Police Office in the said Parish, shall, in addition to his jurisdiction as a Justice of the Peace under the provisions of Chapter one hundred and thirty seven of the Revised Statutes, Title thirty seven, have civil jurisdiction in the said Parish, and in the Parishes of Lancaster and Simonds, as follows:—First, in all actions specified in said Chapter one hundred and thirty seven; second, in actions for any kind of debt when the sum demanded does not exceed sixty dollars; and third, in actions of tort to real or personal property, when the damages claimed do not exceed sixteen dollars; all proceedings under this Section shall be had and taken in every respect under the provisions of said Chapter one hundred and thirty seven, or any amendments thereof; and any person desiring to take proceedings under this Section may abandon a portion of his debt, and reduce the amount claimed by him, so as to bring his demand within the jurisdiction hereby created.

14. The fees to be taxed or taken for only the said Police Magistrate, and any constable, witness or juror in such civil actions, shall be the same as provided by the said last mentioned Chapter, except that when the action shall be for a larger amount than thirty dollars, the said Police Magistrate and constable shall be entitled to take and receive double the amount of fees allowed by the said Chapter; provided only that no constable shall receive a higher rate of poundage on any execution levied by him under this Act, than is allowed in and by the said Chapter one hundred and thirty seven.

15. No Police Magistrate appointed for the Police District of the European and North American Railway, under the eleventh Section of the eighteenth Chapter of the twenty first Victoria, shall have any jurisdiction in civil causes, in any of the Counties in which such District lies, or elsewhere, save and except such as may be expressly given to him under and by virtue of the said Act or any Acts in amendment thereof; and no Justice of the Peace shall have any such jurisdiction in any County for which he may have been or may hereafter be appointed, unless he reside in such County; and any proceedings taken or had before any such Justice, while his usual place of residence shall be out of the County for which he is appointed, shall be absolutely null and void.

A.—Execution.

To any Policeman or Constable of the Parish of Portland, in the City and County of Saint John.

Levy and sell of the goods and chattels of A. B. within the City and County of Saint John, the sum of \_\_\_\_\_ which has been assessed upon him for his rates and taxes in and for the said Parish for the current year, (or as the case may be) and also \_\_\_\_\_ for costs of execution and levying, the whole being \_\_\_\_\_, and have that money at my office on the day of \_\_\_\_\_, [not less than ten nor more than thirty days from the date of the Execution]; and for want of goods and chattels whereon to levy, take the said A. B. and deliver him to the keeper of the gaol of the City and County of Saint John, who is hereby required to receive him, and keep him safely \_\_\_\_\_ days, unless the same with costs be sooner paid; and make return hereof at the day and place aforesaid.—Dated this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18\_\_\_\_\_

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C. D., Receiver of Taxes.