

and ten shillings, money, on the inhabitants of their town, according to law, and with the assessment to deliver a warrant to the constable of their town, requiring him to collect and gather the same, and said sum so collected to deliver and pay in unto Major Thomas H[inks][ench]man, Major Jonathan [Tinge][Tyng] and Mr. John Lane, undertakers for the building of the bridge lately erected in Billerica abovesaid; and said constable to pay in the said sum, and issue and settle his account with the said undertakers at or before the first day of August next. And Groton shall not be liable to contribute anything further toward the repair or rebuilding said bridge at any time for the future, unless the general court or assembly shall order the same. [*Passed and published March 23, 1699—1700.*]

CHAPTER 26.

AN ACT DIRECTING HOW RATES OR TAXES TO BE GRANTED BY THE GENERAL ASSEMBLY SHALL BE ASSESSED AND COLLECTED.

FORASMUCH as, for the support of the government of this his majesty's province of the Massachusetts Bay in New England, and for the safety and defence of the said province, and defraying of the contingent charges arising within the same, it is necessary a suitable supply of money should be from time to time granted by the great and general court or assembly of the said province; to the intent, therefore, that there may be due provision made and established for assessing all such sum and sums of money as shall be hereafter granted by the great and general court or assembly of this province, to be levied upon the polls or estates within the same, or upon both polls and estates, for the support of the government thereof, or any other publick use or uses whereto the general assembly shall think fit to apply such grant or grants; as also that there may be like due provision to enforce the collecting and paying into the treasury such sum and sums of money so to be granted as aforesaid according to the true intent of the act or acts granting the same,—

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

[SECT. 1.] That in the month of March, annually, at the same time when town officers are chosen by the respective towns within this province according to the direction of the act intituled "An Act for regulating of townships, choice of town officers, and setting forth their power," there may be elected and chosen by the freeholders and other inhabitants of every town duly qualified to vote in town affairs, then present, or the major part of them, three, five, seven or nine meet persons to be assessors of all such rates and taxes as the great and general court or assembly shall, by any act or acts to be by the same duly made and passed, order and appoint such town to pay towards the publick charges of the province, within or during the space of one year from the choice of such assessors; every of which so chosen shall, within the space of seven days next after, be sworn before a justice of the peace, or town clerk in any town where no justice of the peace dwells (who are hereby respectively impowred thereto), in manner following; that is to say,—

You, A. B., being chosen an assessor of such rates or taxes as the great and general court or assembly of this province have or shall order and appoint the town of C. to pay into the province treasury during the space of one year next ensuing, do swear that in assessing or apportioning such rates or taxes you will proceed equally and indifferently according to your best skill and judgment and the rules to be prescribed in the act or acts granting the same. So help you God.

Assessors to be annually chosen in the month of March;
1692-3, chap. 28.

—to be sworn.

Form of assessor's oath.

[SECT. 2.] And the town clerk, or two of the selectmen of every town shall forthwith make and give out unto the constable or constables of the same a list of the names of those that shall be chosen assessors at any town meeting as aforesaid; which constable or constables shall thereupon summon each of the said assessors to appear at a certain time and place within the space of seven days from the day of their election, before a justice of the peace, if any dwell in such town, or otherwise before the town clerk thereof, to take the oath above mentioned. And if any such assessor shall neglect to appear accordingly, or, appearing, shall refuse to take the said oath, he shall forfeit and pay to the use of the poor of such town the sum of forty shillings, and if in Boston, five pounds, to be recovered in manner and form as is by law provided for recovering of fines and forfeitures to the use of the poor.

[SECT. 3.] And the selectmen of every such town where any one or more of the assessors so chosen as aforesaid shall refuse to serve as aforesaid, shall forthwith, after notice thereof, summon a meeting of the freeholders and inhabitants of such town, to choose one or more assessor or assessors in the room or rooms of such so refusing; which freeholders and inhabitants duly qualified to vote, being so assembled, shall accordingly choose so many assessors as shall be wanting to compleat the number which the town at the time of their first choice voted and agreed should be elected for the same: *provided, nevertheless*, that it shall be in the power of the court of general sessions of the peace, upon reasonable excuse made unto them by any assessor or assessors, chosen for any town or towns in the county for which such court is holden and kept, that shall refuse to accept as aforesaid, to abate and remit unto such assessor or assessors (if they see cause) the forfeiture or penalty aforesaid. And,

Be it further enacted by the authority aforesaid,

[SECT. 4.] That if any town shall not choose assessors as aforesaid, or if so many of them so chosen as aforesaid shall refuse to accept, as that there shall not be such a number of them as any town shall agree to be the assessors thereof, then and in either of the said cases, the selectmen or trustees of such town shall be and are hereby declared and appointed the assessors of the same, and every of them shall take the oath before recited in manner as aforesaid. And each assessor attending that service shall be allowed and paid out of the town treasury two shillings *per diem* for each day he is necessarily employed thereabout. And,

Be it further enacted by the authority aforesaid,

[SECT. 5.] That if at any time there shall be a default or neglect in any town or precinct to make choice of selectmen or assessors, the said default or neglect being certified and made appear unto the general sessions of the peace within the same county, such town or precinct shall forfeit and pay the sum of twenty pounds for and towards the support of the government of this province; and in such case, as also where neither the selectmen nor assessors chosen by any town shall accept thereof, the justices of the court of general sessions of the peace in the same county shall and are hereby impowred to nominate and appoint three or more sufficient freeholders within such county to be assessors of the publick rates or taxes in any such town as aforesaid; which assessors so to be appointed by the said court shall take the oath before recited, and shall then assess the estate and persons of such town or precinct of which they shall be appointed assessors their due proportion to any publick tax, according to the rules set down in the act for raising of the same, together with the aforesaid forfeiture of twenty pounds where the town makes default, and such additional sum as shall answer their own reasonable charges for time and expence in said service, not exceeding five shillings a man *per diem*; and having assessed the same, shall transmit a certificate thereof to the treasurer, with the

Penalty on assessors chosen that shall refuse;

—a new choice to be made.

Court of general sessions of the peace empowered to abate or remit the penalty.

Selectmen or trustees of towns to be assessors, in case.

Assessors' allowance.

Penalty on towns that shall neglect to choose selectmen or assessors.

Court of general sessions of the peace to appoint assessors, in case.

Allowance to such;

—to be paid out
of the public
treasury.

names of the constables or collectors to whom they shall commit the same to be collected; and such assessors shall be paid their charges as abovesaid (the same being adjusted and certified by two or more justices of the court by whom they were appointed assessors, under their hands), out of the publick treasury by warrant from the governour, with the advice and consent of the council. And,

Be it further enacted by the authority aforesaid,

Penalty on as-
sors that
shall neglect
their duty.

[SECT. 6.] That all assessors as aforesaid, shall duly attend and observe all such warrants as during the time of their office they shall receive from the treasurer and receiver-general of this province, pursuant to any act or acts to be made and passed by the great and general court or assembly of the same, for the assessing and apportioning any province rate or tax upon the inhabitants or estate within the town whereof they are assessors, on pain that the assessors of any town or precinct, failing of their duty by such warrant of the treasurer of them required, shall forfeit and pay the full sum and sums in such warrant mentioned to be by them assessed upon the inhabitants or estate of the town or precinct whereof they are assessors, if the said sum and sums be therein made certain; which shall be levied by distress and sale of the estates, real or personal, of such defective assessors by warrant from the treasurer directed to the sheriff or marshal of the county in which such town or precinct lyes. And the treasurer is hereby authorized and required in such case, *ex officio*, to issue his warrant requiring the sheriff or marshal to levy the said sum and sums accordingly, and for want of estate to take the bodies of such defective assessors, and to imprison them until they pay the same, which warrant the sheriff or marshal is hereby impowred and required to execute accordingly. *Provided, nevertheless, and*

Be it further enacted by the authority aforesaid,

Penalty of de-
fective assess-
ors when the
sum to be paid
by any town to
a tax is not
made certain.

[SECT. 7.] That if the sum to be paid by any town or precinct to any province rate or tax be not made certain by the general assembly, then and in such case any assessors failing as aforesaid shall forfeit and pay a fine not exceeding twenty pounds, at the discretion of the court of general sessions of the peace in the same county, being thereof convicted before said court at the suit or complaint of the treasurer and receiver-general, or any other on his behalf; and such fine to be unto his majesty for and towards the support of the government of this province. And the court before whom such conviction shall be shall forthwith thereupon appoint other meet persons to be assessors of such rate or tax, according to the directions contained in the treasurer's warrant issued unto the former assessors; and the assessors which shall be then so appointed by said court shall take the oath, and be liable to the same duty and penalties as the former assessors. And,

Be it further enacted by the authority aforesaid,

Persons over-
rated to be
eased.

[SECT. 8.] That if any person or persons shall at any time be agrieved at the sum or sums to be set and apportioned upon him or them by the assessors of any town or precinct, and shall demonstrate that he or they are rated more than his or their proportion with others, according to the rule given [*to*] said assessors, to the sum set upon such town or precinct by any act or acts of the general assembly, said assessors shall ease him or them so agrieved; and if they [*shall*] refuse so to do, such person or persons agrieved, complaining unto the next general sessions of the peace within that county, and making appear that he or they are assessed more than his or their proportion as aforesaid, shall be heard and relieved by the justices in said sessions, and shall be reimbursed out of the town treasury so much as the said justices or assessors respectively shall see cause to abate him or them, with the charges; and the court of general sessions of the peace are

impowred, upon the complaint of any party grieved, to require the assessors to produce the lists of their assessment. And,

Be it further enacted by the authority aforesaid,

[SECT. 9.] That all county and town rates and assessments shall be apportioned by the selectmen or assessors of the several towns and precincts within this province, upon the inhabitants and estates within the same, according to the rule that shall from time to time be prescribed and set by act of the general assembly for the [pro][ap]portioning and assessing of the publick taxes that shall be granted unto his majesty in that same year; and such selectmen or assessors shall be under the like obligation of the oath administred unto them for making of the publick tax equally and impartially to proportion such county or town assessments by the same rules. And,

Town and county rates to be apportioned by the same rule as public taxes granted the same year.

Be it further enacted by the authority aforesaid,

[SECT. 10.] That the freeholders and inhabitants of any town duly qualified to vote in town affairs may (if they see cause), at the same time that they choose assessors, as is before provided, likewise elect and choose a meet person or persons to be collector or collectors of the publick rates or taxes that shall be assessed upon such town, and agree what sum or sums shall be allowed and paid out of the town stock unto such collector or collectors for his or their service therein; but if such collector or collectors so to be chosen shall refuse to accept that service, or that none such be chosen, then the constable or constables of such town shall collect and gather such publick rates or taxes; and every collector or constable shall have a warrant from the treasurer and receiver-general, impowring him to collect such rates or taxes as shall be committed to him to collect, and shall pay in the same according to the directions in such warrant.

Collectors of public taxes may be chosen at the same time with the assessors.

[SECT. 11.] And in case of any constable's or collector's decease before his perfecting the collection of any publick assessment committed to him, the assessors of such town shall procure and appoint, at the town's charge, some other fit person or persons to perfect the same collection, and present his or their names unto the treasurer, who is hereby authorized and required to enable and impower such person or persons to collect the same, by granting him or them his warrant. And,

Provision in case of constable's or collector's decease.

Be it further enacted by the authority aforesaid,

[SECT. 12.] That the treasurer and receiver-general shall send such warrants as he shall be from time to time ordered to issue for the assessing or collecting any publick rate or tax, inclosed to the sheriff or marshal of each respective county, who is required immediately to disperse and transmit the same unto the assessors, constables or collectors of the several towns and precincts within such county, according to the directions thereof, and for his service, charge and expence therein, shall have a reasonable allowance ordered him by the justices of the general sessions of the peace in the same county, to be paid out of the county treasury, upon his laying the account thereof before them. And,

Sheriff to disperse the treasurer's warrants.

To be paid out of the county treasury.

Be it further enacted by the authority aforesaid,

[SECT. 13.] That if any person or persons shall refuse to pay the sum or sums whereat they shall be assessed as their proportion to any publick rate or tax in the list committed to any constable or collector under the hands of the assessors of such town, or of the major part of them, upon demand thereof made by the said constable or collector, by virtue of the warrant to him given, it shall and may be lawful to and for such constable or collector, and he is hereby authorized and required in such case to distrain the person or persons so refusing, by his or their goods or chattels, and the distress or distresses so taken to keep by the space of four days at the cost and charges of the owner thereof. And if the said owner do not pay the sum and sums of money so assessed upon him within the said four days, then the said distress or distresses

Constable or collector empowered to distrain, in case, &c.

Distress to be sold by outcry.

to be forthwith openly sold at an outcry by the said officer for payment of the said money (notice of such sale being posted up in some publick place in the same town twenty-four hours beforehand), and the overplus coming by the said sale, if any be, over and above the charges of taking and keeping the said distress or distresses, to be immediately restored to the owner. And if any person or persons assessed as aforesaid shall refuse or neglect to pay the sum or sums so assessed, by the space of twelve days after demand thereof, where no sufficient distress can or may be found whereby the same may be levied, in every such case two or more of the assessors in such town are hereby authorized by warrant under their hands and seals to commit such person or persons to the common goal, there to be kept without bail or mainprize until payment shall be made. And,

Persons to be committed, not having whereof to distrain.

Be it further enacted by the authority aforesaid,

[SECT. 14.] That where any person or persons shall remove from any town or place where he or they lived, or had his or their residence at the time of making the lists of any publick tax or assessment, not having before paid the respective sum or sums set upon him or them by such lists, it shall and may be lawful to and for the constable or collector to whom any such tax or assessment shall be committed with warrant to collect, and he is hereby authorized and impowred to demand the sum or sums assessed upon such person or persons, in what town or place soever he or they may be found, and upon refusal or neglect to pay the same, to distrain the said person or persons, by his or their goods or chattels as aforesaid, and for want of such distress to commit the party to the common goal, there to remain until payment be made. And,

Persons removing from the place where they were assessed may be taken in any other.

Be it further enacted by the authority aforesaid,

[SECT. 15.] That where the owner or tenant of any lands liable to publick taxes shall not reside or be an inhabitant of the town or precinct in which such lands lye, and no stock, corn or hay can be found upon the said lands, whereof the constable or collector may make distress to satisfie such sum or sums as from time to time such lands shall be assessed at, either to the province, county or town charges, in such case any justice of the peace in the county where the occupant of any such lands dwells or resides, upon application to him made by the constable or collector to whom the list wherein such lands shall be assessed shall be committed, and upon sight of the same, or authentick copy thereof, may, and hereby is impowred and required to grant a warrant unto the constable of the town or precinct where such occupant dwells or resides, to distrain such occupant, by his goods or chattels, the full sum at which said lands are set in such list of assessment, with the charges occasioned for making such distress, and to satisfy the same by sale thereof, returning the overplus (if any be) to the owner; and in case no goods or chattels can be found whereon to distrain, to commit the party to the common goal of the county, there to remain without bail or mainprize, until he pay and satisfy the sum or sums so assessed with the charges. And,

Provision in case of lands being rated in any town in which the owner or tenant thereof does not dwell.

Be it further enacted by the authority aforesaid,

[SECT. 16.] That when at any time the general assembly shall order any publick rate or tax by them granted, to be paid into the treasury at two or more several times or days of payment, and any person or persons being inhabitants or dwellers in any town or precinct within this province at the time of making such rate or tax, and being assessed thereunto, shall be about to remove him or themselves from thence before the time that shall be prefixt for payment of the same, it shall and may be lawful in such case to and for the constable or collector of the same town or precinct to demand and levy the whole sum and sums which such person or persons shall be assessed at in the list or lists to

Provision in case of persons being about to remove before the time for payment of the second part of any tax.

such constable or collector committed, notwithstanding the time for collecting the second part of such rate or tax may not then be come, and in default of payment to distrain for the same, or to take any other way or course for the obtaining thereof, according to the rules and directions hereinbefore provided. And when and so often as it happens that constables be anew chosen and sworn for any town before the former constables have perfected their collection of any tax or assessment to them committed to gather, such former constables are notwithstanding hereby fully impowred and required to perfect all such collections, and may exercise the same powers and authorities for the gathering and enforcing the payment thereof as by this act they might have done before other constables were chosen and sworn. And,

Constables, to whom any tax shall be committed, to perfect their collection although other constables be chosen.

Be it further enacted by the authority aforesaid,

[SECT. 17.] That if any constable or collector to whom any publick tax or assessment shall be committed to collect, shall be remiss and negligent of his duty, in not levying and paying unto the treasurer, his deputy or deputies, such sum and sums of money as from time to time he shall have received and as ought by him to have been paid within the respective times set and limited by the treasurer's warrant, according to the directions therein, pursuant to law, the treasurer is hereby impowred after the expiration of the time so set, by warrant under his hand and seal, directed to the sheriff or marshal, to cause such sum and sums of money to be levied by distress and sale of such defective constable's or collector's estate, real or personal, returning the overplus (if any be); and for want of such estate to take the bodies of such constables or collectors, and to imprison them until they pay the same, which warrant the sheriff or marshal is hereby impowred and required to execute accordingly. And,

Penalty on defective constables or collectors.

Be it further enacted,

[SECT. 18.] That if any constable or collector so failing as aforesaid, have no estate to be found whereon to make distress, and his person cannot be taken within the space of two months from the time which was set for his paying the same into the treasury, in such case the town or precinct whereof the constable or collector so fails of his duty shall, within three months from the expiration of [the] said two months, make good to the treasury the sum or sums due and owing to the same from such defective constable or collector, which the assessors of such town (having notice from the treasurer of the failure of any constable or collector as aforesaid), shall forthwith thereupon, without any other or further warrant, assess upon the inhabitants and estates of such town in manner as the sum so committed to such defective constable or collector was assessed, and commit the same to some other constable or collector to collect, who is to be impowred thereunto by warrant from the treasurer: *provided, always,* that such constable or collector failing of his duty as aforesaid, for whose default the town is answerable as before expressed, shall at all times afterwards be liable to the action or suit of the treasurer of such town for all such sum and sums as were assessed upon the same through his default, and for other damages accruing unto [the] said town thereby.

The town or precinct in which any defective constable or collector lives, to be answerable for his payment into the treasury of the sums committed to him to collect.

[SECT. 19.] And in case of the decease of any constable or collector in any town before his having adjusted the accompts of the assessment to him committed, the executors or administrators of such constable or collector shall within two months after his decease settle and make up accompts with the assessors of the same town, of such part of the said assessment as was received and collected by the deceased constable or collector in his life time, with which such executors or administrators shall be chargeable in like manner as the deceased constable or collector should be if living; and such assessors shall thereupon procure and appoint other fit person or persons to perfect such collection as is before

Executors or administrators of constables deceased to make up their accounts, &c.

provided. And if the executors or administrators of any constable or collector so deceasing, not having fully collected the assessment committed to him, shall fail of making up and settling the accompt of what was received by the deceased as aforesaid before the expiration of the time aforesaid, such executors or administrators shall be chargeable with the whole sum committed to be collected by the constable or collector unto whom they are executors or administrators, in manner as the deceased constable or collector should be if living, in case there be sufficient assets. And,

Be it further enacted by the authority aforesaid,

Penalty on defective sheriffs or marshals.

[SECT. 20.] That where any sheriff or marshal shall make default in accounting for or returning into the treasury the sum and sums mentioned in any warrant or warrants of distress by him to be received from the treasurer, the treasurer in such case is hereby authorized and impowred to make out his warrant, directed unto the coroner of such county where any sheriff is defective, or to the constable of the town in which a defective marshal lives, requiring them respectively to distrain the same upon the estate real or personal of such defective sheriff or marshal, as is before herein directed referring to the sheriff or marshal making distress upon the estate of defective constables or collectors, which warrant the coroner of any county or constable of any town to whom the same shall be directed are hereby respectively impowred and required to execute accordingly. And,

Be it further enacted by the authority aforesaid,

How real estates levied by the treasurer's warrant shall be disposed of.

[SECT. 21.] That where any sheriff or marshal or any of their deputies shall, by warrant from the treasurer, pursuant to this act, distrain and levy the lands or tenements of any constable or collector, or where any coroner or constable shall, by warrant as aforesaid, distrain and levy the lands or tenements of any sheriff or marshal, for their or any of their defaults in not collecting or not paying into the treasury any sum or sums of money which ought to be by them collected, levied and paid in as aforesaid, in every such case the sheriff or marshal, or either of their deputies, or the coroner or constable executing such warrant or warrants of distress, shall cause a due apprizement to be made of any houses or lands so levied, by the oaths of two or three sufficient freeholders in the same county (which oath any justice of the peace is hereby impowred to administer); and after apprizement thereof so made, is hereby fully authorized and impowred to make sale of such houses or lands, and to make, seal, acknowledge and execute good and sufficient deeds and conveyances for the same, and out of the produce thereof to pay and satisfy the sum or sums for which such estate shall be levied, with all charges arising thereon, and to return the overplus upon such sale (if any be) unto the owner; and all deeds and conveyances of any such estate in houses or lands duely executed as aforesaid shall be good and effectual in the law unto the purchaser and his heirs and assigns forever to all intents and purposes: *provided, always, and*

Be it further enacted by the authority aforesaid,

Things exempted from distress.

[SECT. 22.] That in no case whatsoever any distress shall be made or taken from any person or persons of his or their beasts belonging to the plough, nor of tools or implements necessary for his or their trade and occupation, nor of his or their arms or utensils of household necessary for upholding of life, nor of bedding or apparel necessary for him or themselves or family; any law, usage or custom to the contrary in any wise notwithstanding: *provided, also,* that this act shall continue and be in force until the first day of July, in the year of our Lord one thousand seven hundred and three, and no longer. [*Passed March 20; published March 23, 1699—1700.*]