

The Provincial Statutes of Lower-Canada, Being the second session of the fourteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1832.

2 William IV – Chapter 44

An Act to amend the Act passed in the thirty-sixth year of the Reign of His Majesty King George the Third, intituled, "An Act for making, altering, and repairing the Highways and Bridges in this Province, and for other purposes," and to make further regulations concerning Roads and Bridges. (25th February, 1832.)

Whereas the powers now vested in the Grand Voyer of the several Districts of this Province, and their deputies, under the authority of a certain Act, passed in thirty-sixth year of the Reign of His Majesty King George the Third, intituled, "An Act for making, repairing, and altering the Highways and Bridges within this Province, and for other purposes," have been found insufficient, and the execution thereof burthensome: Be it therefore enacted by the King's Most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Québec, in North America,' and to make further provision for the Government of the said Province;" And it is hereby enacted by the authority aforesaid, that the powers now vested by the said Act in the Grand Voyers of the several Districts of this Province, and their Deputies, with respect to making, repairing, maintaining, or changing the direction of any old highway or by-road, (route) or to altering the place of any old bridge, or making any new bridge, or to the apportioning and distributing of any work, or to establishing road divisions, or appointing surveyors or overseers of reads, together with ail other powers now vested by law in such Grand Voyers or their Deputies, for any of the purposes aforesaid, shall be vested in the Road Commissioners to be chosen in the manner hereinafter directed, for and within each County, which said Commissioners shall be held to perform all the duties imposed by law for the purposes aforesaid, on the Grand Voyers and their Deputies, and to be subject to all the penalties for refusal or neglect of their said duties as heretofore provided by law in respect to the said Grand Voyers and their Deputies: Provided that every such penalty, when it exceeds the amount of fifty shillings, shall be reduced to a sum not exceeding that amount against every such Commissioner. Provided always, that nothing herein contained shall extend or be construed to extend to render the provisions or requirements of this Act compulsory upon any Parish extra Parochial Place or Township of which the inhabitants or a majority of them present and qualified to vote as herein before required at any meeting to be held under the authority of this Act shall not be walling to proceed to the Election of a Road Commissioner, or to take the benefits intended to be conferred by this Act, and that until such Road Commissioners shall have been so chosen, it shall be lawful for the Grand Voyer of the District, or his Deputy, to exercise within any place in which no such Road Commissioners shall have been chosen, all the powers which they

might have exercised therein if this Act had not been passed. Provided always, that no person shall be bound to fill the office of Road Commissioner more than once during eight years.

II. And be it further enacted by the authority aforesaid, that it shall be the duty of the senior Justice of the Peace, residing in each Parish, Township, or extra-parochial place, or in default of such Justice of the Peace, the Officer of Militia, the highest in grade, residing therein, to call, on the first Monday of the month of June which will be in the year one thousand eight hundred and thirty-three, and on the first Monday of the month, of June every second year, a public meeting of persons qualified according to law to vote for members of the Assembly of this Province, and also of tenants of Crown and Clergy Reserves, for the purpose of electing one person qualified as aforesaid, and residing in such Parish, extra Parochial place or Township, to be Commissioner of Roads and Bridges therein for the same: Provided always, that such Justice of the Peace or Officer of Militia shall cause public notice to be given in the manner prescribed by the twenty-fifth section of the said Act, passed in the thirty-sixth year of the Reign of His Majesty George the Third, of the time and place at which such meeting will be held, and the time so appointed shall not be less than fifteen days nor more than twenty days from the date of such notice, under the penalties provided in the said twenty-fifth section, against all persons contravening the directions therein contained.

III. And be it further enacted by the authority aforesaid, that if the said first Monday in June, in any year, shall be a Holiday, or if by any other cause, the meeting prescribed in the preceding section, shall not be held on that day, it shall then be the duty of such Justice of the Peace or Militia Officer to call another meeting instead thereof for the first Monday of the succeeding month, or in failure, on the first Monday of any other succeeding month, and to give notice to that effect in the same manner as is prescribed by this Act, with regard to meetings on the first Monday in June.

IV. And be it further enacted by the authority aforesaid, that at every such meeting the person by whom the same shall have been called, or the next Justice of the Peace in seniority, or the Officer of Militia the next highest in grade then present shall preside, and shall receive and publish the determination of the persons present thereat, as to the most fit and proper person to be Road Commissioner for the Parish, Township or extra Parochial place, for which such meeting is held; and all the proceedings at or concerning such meeting shall be conducted, and regulated in the manner prescribed by the twenty-fifth section of the said Act, with respect to the meetings therein directed to be held for the election of Road Officers, and the person presiding as well as the person chosen to be Road Commissioner thereat, shall observe the formalities, and shall in case of refusal or neglect, be liable to the penalties therein mentioned and provided.

V. And be it further enacted by the authority aforesaid, that the name of the Commissioner so chosen shall be forthwith transmitted by the person presiding at any such meeting to the

Grand Voyer of the District or his Deputy, (where there is no Grand Voyer,) to be by him entered of record.

VI. And be it further enacted by the authority aforesaid, that the Commissioners so chosen for any Parish, Township or extra Parochial place, shall within the limits of such Parish, Township or extra Parochial place, have all the powers heretofore vested in the Grand-Voyer or his Deputy, (the powers hereinafter reserved for the Commissioner of the County, or the majority of them alone excepted,) for and during two years from the time of their election.

VII. And be it further enacted by the authority aforesaid, that if any Commissioners so chosen shall die, or shall leave the Parish, Township or extra Parochial place, for more than three months, or shall otherwise vacate his place, a Commissioner shall be chosen to fill the vacancy thereby occasioned, at a meeting and election to be called and held in the manner herein before provided, with respect to the election of such Commissioners.

VIII. And be it further enacted by the authority aforesaid, that the Commissioners so chosen for each Parish, Township or extra-Parochial place, in any County, or the majority of them, present at any meeting called at a certain time by any two Commissioners, and held at the place or places in rotation appointed for holding elections for members to represent such County in the Assembly, and of which notice in writing shall be left at the domicile of each Road Commissioner in the County, and shall also be posted up in the most public places in each Parish, Township or extra Parochial place within the said County, at least twelve days before such meeting is to be held, shall have all the powers now vested in the Grand Voyers and their Deputies, with respect to the making, repairing, maintaining or changing the direction of any old highway or by-road, (route) or to altering the place of any old bridge or making any new bridge: Provided always, that it shall and may be lawful for the said Commissioners or the majority of them present, at any meeting called and held as aforesaid, to adjourn to any other place in the said County, to meet at a time certain, or to appoint a special meeting to be held at any place within the said County for any particular purpose causing due notice do be given of such purpose, time and place of meeting, as before provided.

IX. Provided always, and be it further enacted by the authority aforesaid, that the said Road Commissioners for any County, shall not proceed on any petition for any of the purposes aforesaid, in which only one Parish, extra Parochial place or Township, is chiefly interested, till the said petition have been at least thirty days before the said Commissioner for such Parish, extra Parochial place or Township, and the said Commissioner shall have neglected or refused to proceed thereon, or to perform the duties assigned to him within the said Parish, extra Parochial place; or Township in conformity to this Act, and the Acts now in force for regulating the, highways and bridges.

X. And be it further enacted by the authority aforesaid, that in the execution of the powers vested in the said Commissioners, they shall have power to employ any sworn Land Surveyor to mark out on the ground any road, of which the direction is to be changed, or of any new

road to be laid out, or any bridge to be changed or made; and such Surveyor shall annex to his report of survey a figurative, plan thereof, showing the dots and the names of the owners or occupiers of land to which such road or bridge will be particularly advantageous, and who may be liable to work on, or to contribute to the same according to law, as may be directed or determined by the said Commissioners.

XI. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, the powers vested in the Court of General Quarter Sessions of the Peace in the several Districts of this Province, respecting Procès Verbaux of the Grand Voyer or his Deputies, shall be vested in the Justices of the Peace residing in each County respectively, or the majority of them, being in no case fewer than three in number, present at any Special Sessions, which shall be held on the first Monday in each month and following days, if need be, at or as near as may be to the place or places of election for members to represent the County in the Assembly, in rotation, and all Procès Verbaux to be homologated and confirmed or opposition thereto shall be deposited according to the laws now in force, with the Justice of the Peace residing nearest to the place where such Special Session is to be held, and which Special Session shall proceed in the manner directed by law, in respect to the said Quarter Sessions, concerning Procès Verbaux submitted for homologation by the Grand Voyer or his Deputies.

XII. And be it further enacted by the authority aforesaid, that three copies of all plans and Procès Verbaux, confirmed at any such Special Session shall be certified and signed by the Justices who may have confirmed the same, and one of the said copies shall remain of record with the Justice of the Peace residing nearest to the place where the Session was held; another shall be forwarded to the Grand Voyer or his Deputy for the District, to remain of record in his office, and the third shall be delivered, to the Road Commissioner of the place chiefly interested, to be carried into effect under his direction by the Read Surveyors and Overseers, and shall be binding on all proprietors and occupiers of land therein mentioned, under pains and penalties provided by the laws now in force, touching the due observance of the Procès Verbaux of the Grand Voyers and their Deputies.

XIII. And be it further enacted by the authority aforesaid, that the amount of all apportionments of expenses and costs made by the Road Commissioners and Officers for Procès Verbaux and plans, and for public work done, or to be done on the roads and bridges, under the direction of the Road Commissioners, according to any Procès Verbal in force, the said apportionment being certified by the Road Commissioners of the Parish, Township or extra Parochial place, and ratified by the Justices of the Peace at a Special Session as aforesaid, shall if not duly paid on demand, be levied by warrant of distress, granted by any one Justice of the Peace, on the oath of the Road Officer to whom it may appertain to collect the same, that the amount due by any proprietor or occupant according to said apportioned, has been demanded at least eight days before, and is still unpaid, and such warrant shall be directed to the nearest Peace Officer, and shall by him be executed after eight days public notice, and for the execution of such warrant five shillings currency, and no more, shall be allowed and paid to the Peace Officer executing the same.

XIV. And be it further enacted by the authority aforesaid, that when no goods and chattels can be found belonging to such proprietor or occupant or when any warrant of distress shall be issued against any proprietor or occupant for work done upon land belonging to or occupied by any person in default, in respect to the making and repairing of any roads to which such person may be liable by law, the same shall be certified by the Road Commissioner of the place, and the said Road Commissioner or his successor in office shall have an hypothèque, reckoning from the date of such warrant, on the land, for the amount thereof and taxed costs, and the said land may be seized and sold in satisfaction of any judgment for the amount mentioned in such warrant and costs, rendered in any Court of competent jurisdiction, the said judgment being for an amount for which real estate may now be sold in execution by the laws now in force, and in any action en declaration d'hypothèque, brought by the said Commissioner or his successors in office against the person so in default.

XV. And be it further enacted by the authority aforesaid, that when the proprietor of any unoccupied land or lot of land shall not be known to the Road Officer of the Parish, Township or extra Parochial place in which it is situate, the amount of the money due upon such lot, with a designation and description of the land shall be certified by the Road Commissioners to whom it may appertain, to the Court of General Quarter Sessions of the Peace of the District, and if the same is not paid within one month from the date of such certificate, the said Commissioners shall have an hypothèque on said lands or lot, and the same may be seized and sold under any judgment in any Court of competent jurisdiction, the said judgment being for an amount for which real estate may now be seized and sold by law on a petition presented to such Court, stating the facts, and on due proof of the allegations thereof made to the satisfaction of such Court, without it being necessary that the name of the proprietor of such land should be ascertained in the proceedings before the said Court: Provided always that nothing contained, in either of the foregoing sections shall be held or construed to prevent such Commissioner or his successors in office from having a personal action against any person or persons in default as aforesaid, at any time so long as the said debt or hypothèque and costs may remain unsatisfied.

XVII. And be it further enacted by the authority aforesaid, that the Road Commissioners for each County chosen under the authority of this Act, shall have power to lay out or alter in conforming as far as it may be practicable, to the laws now in force, any roads or bridges on any lands or lots, as they may deem necessary for the public advantage, and to cause the same to pass through or along or upon any land or lot as they may deem the most advantageous for making such roads or bridges: Provided always, that when any road shall occupy more than double the front of any such land or lot, the proprietor or occupant thereof shall not be held to the furnishing the ground or the expenses for performing the work necessary for the said road, beyond the extent of the said proportion, but the same shall be purchased and performed at the expense of the persons who may be held thereto by Procès-Verbal: Provided always, that no road so altered or laid out in virtue of the foregoing section, shall pass so as to injure any dwelling house or occupied building or

through any garden or orchard enclosed or cultivated as such, for and during the preceding two years, without the consent of the owner or occupier thereof.

XVIII. And be it further enacted by the authority aforesaid, that the Commissioners chosen under the authority of this Act, shall have power to make regulations and issue directions as to the manner in which the making and repairing of all roads and bridges within the Counties, Parishes, Townships and extra Parochial places for which they are respectively elected shall be done, and may with the consent of the majority of qualified voters present at any public meeting of the inhabitants called for the purpose, after due notice given, that such meeting will be held at a certain time and place in the Parish, Township or extra Parochial place, wherein any such work is to be done, give out the work in convenient lots or parts not being work to be done by resident proprietors or occupants as front road or roads on the lots of land occupied by them, to the person then publicly offering at the said meeting to perform such work at the lowest rate, such person giving on the spot satisfactory security for the due performance thereof, according to the specification publicly read at such meeting, on which such offer shall be made: and such person is hereby made subject to all the penalties in case of default therein, to which the persons bound to make or keep in repair the said road or bridges would be subject in case of their neglecting or refusing to do so; and it shall and may be lawful for any overseer of roads to prosecute, recover and levy the proportion due by each proprietor or occupant for the said work, as well as all penalties incurred by the person having undertaken to do the same as aforesaid, before any one of the nearest Justices of the Peace on conviction and warrant of distress with reasonable costs.

XIX. And be it further enacted by the authority aforesaid, that all Surveyors and Overseers of roads shall duly account to the said Commissioners within their divisions respectively for all monies levied or received by them under this Act, and the road laws now in force, and the said Commissioners shall publicly account to the meetings, held as provided by this Act, for the election of their successors and pay over to them all balances then due and deliver up all vouchers, books and papers concerning their management or the affairs of the highways and bridges within their Parishes, extra Parochial places or Townships respectively.

XX. And be it further enacted by the authority aforesaid, that in all cases wherein the Commissioners of any adjoining Counties shall be unable to agree, as to the place where any roads passing out of one County into another, ought to meet it shall be lawful for the Grand Voyer or his Deputy on being thereunto required by the Commissioners of any County or a majority of them, to regulate the matter in dispute by Procès Verbal, to be homologated at the Court of General Quarter Sessions of the Peace for the District or Inferior District in which the greater part of the work required by such Procès Verbal is to be performed: Provided always, that the said Justices of the Peace in their aforesaid Sessions, shall have the right of deciding, concerning both the form and the merits of the said Procès Verbaux.

XXI. And be it further enacted by the authority aforesaid, that nothing in this Act contained shall extend to the Country Districts of the Cities of Québec and Montreal, or to the Banlieue

of the Town of Three Rivers [Trois-Rivières], but the highways and bridges in the same shall remain as heretofore under the direction of the Justices of the Peace residing in the said Cities and Town respectively, who shall have power to make regulations as to the manner in which all work on the roads in the said Country Districts and Banlieue is to be performed, and to determine what shall be considered as a sufficient state of repair with respect to the roads therein, and such determination (being duly published) shall be taken notice of and observed by all parties concerned, under the penalties provided by the laws now in force with respect to the refusal or neglect to make or keep such roads in repair: Provided always, that no road in the said Country Districts or Banlieue, which shall have been Macadamized, shall be held to be in a sufficient state of repair, unless such road shall have been kept in repair in the same manner and with materials of a quality at least equal to that of the materials with which the same was first Macadamized.

XXII. And be it further enacted by the authority aforesaid, that when any Road Commissioner for any Parish, extra Parochial place or Township, may be personally interested in any road to be laid out therein, or other work to be done under his direction, it shall and may be lawful for the nearest Road Commissioner of the County to act in his stead, and when any complaints are to be heard and determined before the nearest Justice of the Peace, the same may be heard and determined at the demand of either of the parties by any other of the nearest Justices of the Peace, if it should be shewn that the nearest is interested in the matter to be determined, and each and every Justice of the Peace in any County, who shall hear and determine any complaint under this Act or under the road laws now in being, shall certify the same to the next ensuing monthly Sessions for the County, shewing the names of the prosecutors, the party convicted, the nature of the complaint and of the judgment, the amount of the costs and monies levied, and the disposal thereof.

XXIII. And be it further enacted by the authority aforesaid, that no fee shall be allowed to, or exacted or received by the Grand Voyer or his Deputy, those cases only excepted in which they or either of them shall act by virtue of this Act, in which cases the fees of the Grand Voyer and his Deputy, shall be such as are appointed by an Act passed in the ninth year of His late Majesty's Reign, chapter thirty-three, intituled, "An Act for regulating the fees of Grand Voyers, and the costs of proceedings relating to Procès Verbaux." Provided always, that nothing herein contained shall authorize the said Road Commissioners to receive any fees or emoluments whatsoever for any thing by them done under the authority of this Act.

XXIV. And be it further enacted by the authority aforesaid, that a copy of this Act and of the said Act hereby amended, passed in the thirty-sixth year of the Reign of His late Majesty King George the Third, and intituled, "An Act for making, repairing and altering the highways and bridges within this Province, and for other purposes," shall be forwarded to every Commissioner of Roads, in the same manner and under the same provisions as by law provided, with respect to the distribution of the Provincial Statutes to the Magistrates and other persons entitled to receive the same, and by them respectively kept and delivered over to their successors in office.

XXV. And be it further enacted by the authority aforesaid, that it shall be lawful for the Justices of the Peace for the County, at any monthly Session, at which any Procès Verbal shall be submitted, to them for confirmation, to cause the following allowances to be paid to the several persons who shall have been employed about such Procès Verbal and other things thereunto relating that is to say:—

To the Road Commissioners, the amount of their actual disbursements in the matter of such Procès Verbal, as ascertained and proved to the satisfaction of the said Justices.

To the Surveyor for the plan, Procès Verbal and copies thereof, such sum as shall to them appear to be a fair remuneration for his labour, not exceeding the usual rate of remuneration allowed to Surveyors.

To the Clerk or other person doing the duty of Clerk at such Special Sessions, the sum of seven shillings and six pence currency, for recording the confirmation or disallowance of such Procès Verbal and the other proceedings had thereon at such Special Session.

For every certified copy of any paper by him delivered to any person entitled to demand such copy, at the rate of six pence currency for every hundred words.

To the person who shall have been employed by the Commissioners as their Clerk in any matter relating to such Procès Verbal, six pence currency, for every hundred words in all the papers he shall have been required by the Commissioner to prepare with relation to such Procès Verbal.

And all sums so allowed shall, if not duly paid, be levied in the same manner and under the same provisions as are herein prescribed with respect to the levying, of the apportionments for public work done and made by the Road Commissioners, and ratified by two Justices of the Peace in Special Session.

And in every suit under the provisions of this Act, for the recovery of any penalty or the amount of any apportionment before any Justice of the Peace or before any Special or monthly Session of the Justices of the Peace, there shall be allowed to the Clerk or the person doing the duty of Clerk, to the said Justice or Justices.

For every Summons which such Clerk or person shall deliver, by direction of the Justice or Justices, one shilling currency.

For every copy of a Summons, six pence currency.

For every Subpoena, not exceeding three for each party, one shilling currency.

For every copy of a Subpoena not exceeding three, for each party, six pence currency.

For every Judgment and copy thereof, one shilling and three pence currency.

For every Warrant of Distress, one shilling and three pence currency.

And to the Peace Officer for every Service of Process and certificate thereof, one shilling currency; and at the rate of one shilling currency per league for the distance he shall have gone to perform such service, or to execute any Warrant of Distress, nothing being allowed for the distance in returning.

And for the execution of any Warrant of Distress and the certificate thereof, five shillings currency; and to the Witnesses, (whose number shall not in any case exceed three for each party,) such moderate allowances as shall be sufficient, to indemnify them for their loss of time and no more, and such allowances shall be the costs of such suit, and the sum levied under the Warrant of Distress shall be sufficient to defray the same as well as the penalty or amount of apportionment sued for.

XXVI. And be it further enacted by the authority aforesaid, that this Act shall be and remain in force until the first day of May, one thousand eight hundred and thirty-five, and no longer.