

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Tuesday the 28th of May 1765 in the Fifth Year of His Majesty's Reign.

5 George III – Chapter 2

An Act in Addition to and Amendment of an Act, made and pass'd in the First Year of His Majesty's Reign, intituled, "An Act for repairing and mending Highways, Roads, Bridges, and Streets," and for appointing Surveyors of Highways, within the several Townships in this Province.

Be it enacted by the Governor, council, and assembly, that where a new highway or common road, from town to town, or place to place in any county in this province shall be wanting, and where old ways with more conveniency may be turned or altered; upon application made to the justices in general session within the same county, the court is hereby impowered to appoint two or three sufficient freeholders of the next towns, who shall have most occasion of the said way, to enquire into the necessity and conveniency thereof, and to make their report thereon, and being judged to be of common necessity or conveniency, the justices shall order a warrant to the provost-marshal or his deputy to summon a jury out of the next towns, to meet at some convenient day and place therein mentioned, to view and lay out such highways or roads, who shall have an oath administer'd to them by a justice of the peace, to lay out such way, according to the best of their skill and judgment, with most conveniency to the public, and least prejudice or damage to any particular person; which having done, the provost-marshal or his deputy is to make a return thereof on the day appointed by the court, as well under his own, as the hands of the jurors, by whose oath the same is laid out, to the end the same may be allowed of and recorded, and after known for a public highway, and all public highways hereafter to be laid out as aforesaid, shall not be less than one hundred feet wide.

Provided always, and be it enacted, that before such road or highways is allowed and recorded for a public highway, the court shall cause notice to be given thereof for the space of thirty days to the intent, that if any person shall think himself aggrieved thereby, he may make his complaint thereof, and inquiry be made into the cause of such complaint.

And be it further enacted, that the surveyor of the highways of each town respectively, be and are hereby impowered to lay out particular and private ways either open or pent, with swing-gates (for such town only) as shall be thought necessary by the justices of the peace in their general sessions, upon application made to them by the persons concerned; provided, that no damage be done to any particular person in his land or property, without due recompence to be made by the town, as the surveyors of the highways, and the party interested may agree, or as shall be ordered by the justices in general sessions, upon inquiry into the same by a jury, to be summoned for that purpose.

And be it also further enacted, that if any person or persons, shall alter any public road or highway, or any private road, that shall be laid out as aforesaid, or that shall make any

encroachment upon the same, not being first authorised, so to do by due course of law; such persons shall upon complaint and due proof thereof made before the court of general sessions, of the peace for the county, where such highway lay before it was so altered or encroached upon forfeit five pounds to be levied by distress and sale of the offenders goods and chattles, by warrant of the court, who shall hear the said complaint, and all forfeitures so to be levied, and shall be paid to the surveyors of the highway of the township, from whence the fine was levied, to be applied for repairing highways, roads, streets and bridges, within the same.

And whereas in and by the act made and pass'd by the general assembly of this province, in the first year of his Majesty's reign, intituled, an Act for repairing and mending "highways, roads, bridges and streets, and for appointing surveyors of highways within the several townships in this province, it is among other things enacted, that the constables of the several townships in this province shall in writing (making an equal division) set out to the surveyors of highways the several roads, highways and streets, on which each of them shall respectively labour, and deliver also a list signed by them of such persons, as shall live within the district, whereas such highways, roads, or streets are allotted, to each of them, to be employed by them respectively, and who accordingly shall be reputed to be the person obliged by the said act to labour."

And whereas it is thought most proper, that the surveyors of the highways, should themselves set out the several roads, highways and streets, which require repair.

Be it therefore enacted, that the constables of the several townships in this province shall make out a list of all such persons who are owners of teams, carts, or trucks, as also of every other householder and labourer within their respective townships, and deliver the same to the surveyors of highways, and at such time, as the said surveyors shall judge proper, between the days prescribed by the afore recited act the said constables, shall summon so many of the persons contained in said lifts, as the surveyors shall direct from time to time.

And be it also enacted, that all persons able of body between the age of sixteen years and sixty shall be oblig'd to labour at the said roads, highways, streets and bridges, or procure or pay a proper person for the same.

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