

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on the Twentieth day of February 1800, and thence continued by several Prorogations to the Ninth day of June, 1801, in the Forty-first Year of the Reign of our Sovereign Lord George the Third, by the Grace of God of the United Kingdom of Great-Britain, and Ireland, King, Defender of the Faith, &c. being the Second Session of the Eighth General Assembly, convened in the said Province. From Richard John Uniacke, The Statutes at Large passed in the General Assembly held in His Majesty's Province of Nova Scotia: A complete index and abridgement of the whole. John Howe and Son, 1805.

41 George III – Chapter 5

An Act for the repairing, keeping in repair, cleaning and paving, the streets in the Town and Peninsula of Halifax, and for removing obstructions therein, and also to suspend the power and authority vested in the Surveyors of Highways within the Town and Peninsula of Halifax, after the first day of August next, during the operation of this Act.

Be it enacted, by the Lieutenant-Governor, Council and Assembly, that Charles Morris, Jr. Lawrence Hartshorne, John George Pyke, William Lyon, and Michael Wallace, inhabitants of the town of Halifax, shall be, and are hereby, appointed commissioners, for the repairing, paving, and keeping in repair, the streets, lanes and alleys, in the town, and on the peninsula of Halifax, and for ascertaining, and removing, obstructions therein: and in case of the death, removal, or refusal, of any of the said commissioners, his or their places to be filled up by such person or persons, being inhabitants of the town of Halifax, and respectable freeholders there, as the Governor, Lieutenant-Governor, or Commander in Chief for the time being, with the advice of His Majesty's council, shall nominate and appoint.

II. And be it further enacted, that the said commissioners shall and may divide the said town and peninsula into such, and so many, wards or divisions, as they shall judge convenient, and assign to each other, such ward or division thereof, as they can respectively superintend; and shall and may appoint a receiver of monies, and a clerk, and shall and may ask, demand and receive, of and from the inhabitants of the town and peninsula of Halifax, all such sum or sums of money, rates, services, highway-work, or labour, as they are by any former law, or by the provisions of this act, made liable to pay, or furnish, for the mending, or repairing, of streets, lanes, roads or highways, in the said town and peninsula; and shall have the like remedy for the recovery thereof, as the surveyors, or overseers, of the highways, roads or streets, by such former laws, have had, or ought to have; and the said commissioners, or any three of them, shall prosecute, on complaints made to them, every person or persons who shall offend against this act, or any other of the laws and statutes of this province, so far as respects the preservation, repairing, and preventing encroachments, on the streets, lanes and highways, of said town and peninsula, and are also hereby authorised and empowered, to bring any action or actions in the name of the said commissioners, or of the major part of them, against any person or persons receiving, or holding, monies, appropriated for the repair of the highways, streets, or roads, of the said town and peninsula, and also against any person or persons refusing, or neglecting, to pay,

or satisfy, his, her or their, proportion of any rate or assessment of monies, or highway-work due, and owing on account thereof, as if the same were a private debt, contracted with, or owing to, them, or the major part of them, respectively, and have like process, and remedy, for the recovery thereof, as in case of private debts.

III. And be it further enacted, that, from and after the first day of August next, the said commissioners, or any three of them, within their respective wards or divisions, to be cleaned, repaired, raised, sunk, altered or paved, as they may think best; provided always, that the paving of Water street, within the ancient picketed lines of the town, and George street, from the parade to Water street, shall be completed before any other streets shall be begun to be paved; and the pavement shall be afterwards continued through the other streets, in every direction therefrom, as the said commissioners may judge best, and be able to accomplish the same. And the said commissioners, or any three of them, shall have full power and authority to cause to be dug, gathered, and carried out of, or brought into, the said streets, lanes and roads, such gravel, stones, earth, or other materials, from the shores of the harbour, or elsewhere, provided the same be done with as little injury as possible to the proprietor or proprietors of the soil, and to employ boatmen, carts, workmen and labourers, and to pay and satisfy them for their services, as they shall judge necessary and conducive to the accomplishing the ends and designs of this act; and also to make contracts, with any fit persons, for the repairing and paving the said streets, highways and lanes, or any part thereof, on the best terms that can be procured for the public, and shall and may, if they think proper, bargain or compound with any of the inhabitants by the year, for such sum or sums of money as the said commissioners may think reasonable for the share or proportion of such inhabitants for and towards the repairing, paving, or keeping in repair, the said streets, highways or lanes: provided such composition money be paid in advance; and shall also have power and authority to put up bars or fences, to shut up any street or streets while undergoing repairs by paving or otherwise.

IV. And be it further enacted, that the said commissioners, or any three of them, shall have power to raise, sink, alter, or new lay, any drain, water courses, pipes or common sewers, as often, and in such places, as they may think proper, provided, the same be done with as little detriment and inconvenience to the neighbours, and others, as the circumstances of the case will admit of; and the said commissioners, or any three of them, may cause the course or direction of any gutter, water-course or channel, running in or through the said street, lanes or highways, to be turned or altered as they think proper.

V. And be it further enacted, that no person or persons whatever, shall throw, or cause to be thrown, or laid, any ashes, stable manure, stones, dirt, or filth of any kind, in any of the said streets, highways or lanes, or encumber the same with any trucks, carriages, carts, timber, cordwood, sea coal, lime, or other building materials, or with any earth or rubbish, on pain of forfeiture of such trucks, carriages, carts, timber, cordwood, lime, coal, building materials, earth, rubbish, ashes, manure, stones or dirt, and likewise suffering the penalty already imposed by law, on persons guilty of incumbrances in the streets, lanes and highways, of said town and peninsula. – And the said commissioners, or any three of them,

may cause all such incumbrances to be removed, sold, or otherwise disposed of, as they may think fit. Provided always, that any person or persons, by leave of the said commissioners, or the major part of them, may lay or deposit for the purpose of building houses, or other work, in the said streets, lanes, or highways; or may set up, or erect posts, bars, or other inclosures, for the better securing such materials, and to continue the same for such time only, as the said commissioners, or the major part of them, may give leave, and in such manner and form as they shall, in writing, direct, and no longer, on pain of forfeiture thereof; and provided also, that reasonable notice shall first be given to the owner, or proprietors, if known, of such sea coal, cordwood, ashes, rubbish, or other incumbrances, laid in the streets; and if the owner, or proprietor, be unknown, then such notice, in writing, to be left at the house or houses, nearest or opposite to where such incumbrances are laid, to remove the same within the time that may be limited and ordered by the said commissioners, or the major part thereof.

VI. And be it further enacted, that it shall and may be lawful for the said commissioners, or the major part thereof, to cause any well or wells to be dug or sunk, and pumps to be therein placed, in any parts of the said streets or lanes, where they shall judge necessary, and most convenient; the same to be placed and constructed in such manner as the said commissioners may direct.

VII. And be it further enacted, that the said commissioners, or any three of them, shall, immediately after the publication of this act, cause an impartial survey and examination to be made of all the streets, lanes and highways of said town and peninsula, and shall cause all sign posts, show glasses, show boards, porches, steps, fences, cellar doors, and all and every other material, matter or thing, belonging to any house, ware-house, shop, cellar and building, or to any lot of ground or inclosure, which cause or occasion any nuisance, annoyance, incroachment or obstruction, in the said streets, lanes and highways, of said town and peninsula: if the same shall have been built, placed or erected, at any time within twenty years previous to the publication of this act, to be wholly removed, or otherways to be placed or altered in such manner and form as shall be approved by them, or the surveyor employed by them; and in case it can be done without any particular inconvenience to the public, shall and may permit and suffer the same to remain, in case the owners or proprietors thereof, or any of them, shall give security that the same shall not be repaired, or again rebuilt; and also to pay and satisfy to the said commissioners, or the major part of them, a reasonable yearly ground rent for the part of the street so incroached on, to the satisfaction of said commissioners, during the continuance of such incroachment.

VIII. And be it further enacted, that every person or persons intending to erect any building upon, or close to, the line of any street, lane or highway, within the said town or peninsula, shall, previously to the digging of a foundation, or beginning to erect such building, make application to one or more of the said commissioners to cause the line of such street, lane or highway, to be defined or laid out; and shall dig such foundation, and erect such building, within the said line, so as to avoid making any incroachment upon such street, lane or highway; and if it should be necessary to employ a surveyor on such occasion, the expence

of such surveyor shall be defrayed by the person or persons so intending to build as aforesaid; and if any person or persons shall presume to erect any building, upon the line of any such street, lane or highway, without making application, and having the line of the street, lane or highway, ascertained and applied for the purposes of this act, and shall also remove such building, if it shall be found to have incroached upon any street, lane or highway; or otherwise the said commissioners shall and may proceed to remove the same, or take such other steps as are allowed by law, in cases of common nuisance.

IX. And be it further enacted, that no person shall be at liberty to dig up, or break open, the soil of any street, lane or highway, within the said town and peninsula, without first applying to the said commissioners, and obtaining their permission in writing, specifying the purpose for which such breaking of the soil is allowed, and the said commissioners may impose such terms upon the person applying, as the security of passengers by day or night, shall appear to them to require; and any person acting contrary hereto, or to the terms imposed by the said commissioners, shall forfeit and pay five pounds for every such offence.

X. And be it further enacted, that in addition to the rates, duties and services by law imposed, for the making and repairing of the roads, streets and lanes, within the town and peninsula of Halifax, it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief for the time being, to draw, by warrant, on the treasury, quarterly, for one third part of the monies arising from the duty collected on licensed houses and shops, within the town and peninsula of Halifax: and the treasurer of the province is hereby authorized to pay the amount of such warrant or warrants to the said commissioners, or their order.

XI. And be it further enacted, that the said commissioners shall keep a regular and exact account of all monies and labour received by them, and of all services performed in the execution of this act, and shall, once a year, on or before the tenth day of March, in every year, make up, and render under their hands, or the hands of the major part of them, to the treasurer of the province, a general, regular and fair, account in writing, of all monies and labour received and paid by them in the execution of, or under and by virtue of, this act; and also of all services done and performed, and of the costs and expence of doing the same, for the past year, that the same may be audited and passed in the general assembly at their next meeting.

XII. And be it further enacted, that no action or suit shall be commenced against any person or persons, for any thing done in pursuance of this act, until twenty days notice thereof shall be given, in writing, to one or more of the said commissioners, or after six calendar months next after the fact committed, for which such action or suit shall be brought; and every such action shall be brought, laid and tried, in the county of Halifax, and not elsewhere; and the defendant or defendants in such action or suit, may tender amends, or may plead the general issue, and give this act, and the special matter, in evidence, at any trial to be held thereupon; and if the matter or thing shall appear to have been done in pursuance of this act, or if it shall appear that the said action or suit was brought before the twenty days

notice thereof given as aforesaid, or that sufficient amends were tendered, or if the said action or suit shall not be commenced within the time here limited, or within the county aforesaid, then the jury shall find for the defendant or defendants; and if a verdict shall be given for the defendant or defendants, or if the plaintiff or plaintiffs in such action shall become nonsuit, or suffer a discontinuance thereof, or if upon any demurrer or demurrers in such action or actions, judgment shall be given for the defendant or defendants, then, and in either of the cases aforesaid, such defendant or defendants shall recover treble costs, and have judgment therefor accordingly.

XIII. And be it further enacted, that all monies raised, collected, or paid to the said commissioners, or any or either of them, under or by virtue of this act, shall be applied to the purposes of this act, and for no other use or purpose whatsoever.

XIV. And be it further enacted, that after the first day of August next, the power and authority now vested in the surveyors of highways, within the town and peninsula of Halifax, shall cease and determine, any law, usage or custom, to the contrary notwithstanding.