

*At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday, the Thirteenth Day of February, 1823, in the Fourth year of the Reign of our Sovereign Lord George the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith &c. &c. being the Third Session of the Twelfth General Assembly, convened in the said Province.*

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**An Act to enable the Proprietors of Land, in the Rear Blocks or Divisions of Land in the Township of Guysborough, to open roads through the same.**

Whereas by letters patent under the great seal of this province, bearing date the second day of June, in the year of Our Lord one thousand seven hundred and eighty five, fifty-three thousand eight hundred and fifty acres of land in the township of Guysborough, were granted in common to Nathan Hubbell, Esq. and two hundred and seventy-eight others therein named, a partition of which lands was thereafter made on a plan, by which each of said grantees had one fourth part of the lands so granted to him, allotted in that part of the said grant which fronted on Milford Haven River, a partiot survey of which of which front lands has seen been made, and the remaining three fourths of the lands contained in said grant, was set off on the said plan, in lots forming several rear blocks or divisions, extending, in different directions, to the distance of six miles and upward from the said river, of which no actual survey has yet been made, nor have any roads been laid out or opened through the same, whereby the persons owning them, might have access to their respective lots, for the purpose of settling or improving them, in consequence of which, the whole of said rear divisions yet remain in their original wild state, and it is desirable that a general survey of said lands should be made, and such roads laid out and opened through them. And whereas, a great number of the said original grantees have sold their front lots, and have since died without heirs, or gone out of the province, without disposing of their said rear lots, and there are no means now by law provided, whereby the just and equal proportions of the expense, which would be incurred in laying out such roads, and which of right should be chargeable upon the said rear lots, so laid out to such grantees could be obtained, and the whole of such expense would be too heavy to be borne by the resident proprietors, whereby the settlement and improvement of the said rear lots are much retarded, for remedy whereof:

I. Be it enacted by the Lieutenant-Governor, Council and Assembly, that it shall and may be lawful for the clerk of the peace for the county of Sydney, to return to the justices at the first, or any future, general sessions of the peace, to be held after the passing of this act, in and for the said county, the names of the original proprietors or grantees of said lands, with the quantity of such lands assigned to each person in the said rear blocks or divisions, and, when any number of the said proprietors, or of the present owners or occupiers of said lots, the aggregate amount of whose lots shall exceed one fourth part of the quantity of land contained in the whole of the said rear blocks or divisions shall, by memorial in writing, signed by them, make known to the said justices, at any such general sessions of the peace,

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that it is their desire that a general survey of the said rear blocks or divisions should be made, and roads laid out and opened through them, and, in said memorial, shall express and set forth in what manner the same shall be done, and also the rules and regulations which such proprietors desire may be pursued and followed in making such survey, and laying out and opening such roads, and shall also recommend ten fit and proper persons to act as a committee for procuring the said survey to be made, and to lay out such roads, and also to assess the expense thereof, and, in such memorial, shall also recommend six fit and proper persons to act as surveyors to open such roads, it shall and may be lawful for the said justice to nominate and appoint five out of the ten persons so recommended, to be a committee for the purposes aforesaid, which committee shall have power to appoint a collector, (to be approved by the said justices) to collect the assessments by them to be made for the purposes aforesaid, as hereinafter directed, and out of the six persons recommended to act as surveyors of roads in the said rear divisions, the said justices may nominate as may as they shall judge to be necessary for that purpose, and the persons so nominated and appointed as aforesaid, shall be sworn in like manner, and be subject to the like penalties for not accepting, or for neglect of duty, as surveyors of highways are now, or may hereafter be, liable by the laws of the province, for refusing to serve, or neglect of duty, in their said office; and the said persons, so chosen and nominated for surveyors of roads as aforesaid, shall be vested with all the powers and authority that surveyors of highways have throughout the several towns and settlements of this province; and shall be allowed for each and every day actually employed as surveyor of highways, in opening and improving said roads, the sum of five shillings each per day, to be paid out of the monies that may be recovered from delinquent proprietors, or such as refuse or neglect to perform the labor hereinafter required by this act, to be done by them upon the said roads, or, in default thereof, to be paid out of the license money raised from licensed public houses in the said township, to be allowed and approved of by the grand jurors and justices in sessions as aforesaid; and as soon after the said roads shall be laid out as they shall think proper, the said justices, by an order of sessions, shall direct such surveyors to open and improve them, agreeably to the rules and regulations specified in such memorial. Provided always, that before such justices shall act upon such memorial it must be made appear to their satisfaction that the proprietors, who have signed the same, do actually own at least one fourth of the lands in the said rear divisions. And provided also, that if any one or more of the said proprietors, through whose wilderness lands it may be necessary to lay out any of the said roads, shall object to the same, it shall be lawful for the said justices in their sessions as aforesaid, upon application made to them by the said committee, to order a jury to lay out the same conformably to the laws of this province, in such case made and provided; and should it appear to the said justices, by the report of the said jury to be made to them, that such object was unreasonable, or vexatious, the said proprietor shall be chargeable with the expense of such jury, to be taxed and allowed by the said justices in sessions, and in default of payment thereof, the same shall and may be recovered from such proprietor, by an action at the suit of the county treasurer for the time being, in like manner as debts of like value are recovered before one or more justices of the peace or other courts having jurisdiction within and over the said township, and shall be applied to the purposes of defraying the aforesaid expense.

II. And be it further enacted, that each and every person or persons being the owner or owners of any lands in the said rear division, or that may hereafter own any of the expense of making such general survey, and laying out said roads as aforesaid, to be assessed by the said committee and approved by the said justices, and to be assessed in proportion to the quantity of lands owned by each person in the said rear division, and such proportion, when so assessed and approved, shall be levied in the same manner as county rates are by the laws of this province directed to be levied upon the goods and chattles of such proprietors as shall refuse or neglect to pay the sums so assessed on them as aforesaid, and subject to a like appeal.

III. And be it further enacted, that each and every person being the owner or owners of any tract or parcel of land in the said rear blocks or divisions of land in the said township of Guysborough, or who may hereafter be any such owner or owners by purchase or otherwise, shall and are hereby made liable for each one hundred acre lot, and so in proportion for every fifty acres by him or them respectively owned during the continuance of this act, to labour one day in every year, between the first day of April and the first day of November, in opening and making such roads as aforesaid, under the direction of the said overseers: such labour to be over and above what they now are, or may be, by law subject to perform in the statute labour of said township; which additional work shall be performed by the said owner or owners, or by an able man or men to be procured by him or them respectively, and provided at his or their expense, with suitable tools, according to the work he or they may be called upon to perform; and the owner or owners of such lands as aforesaid, who shall neglect or refuse to execute or perform the said labour, shall, for each and every day's work so neglected or refused to be performed, forfeit and pay the sum of five shillings, and in the same proportion for a less space of time: the same to be recovered by the surveyors of the Highways for the said rear block or divisions of land, appointed as aforesaid, in like manner as debts of the like value are recovered before one or more justices of the peace, or other courts having jurisdiction in the said township: the same to be applied and laid out by the surveyors in opening and improving roads, and making bridges through the rear blocks or divisions of land aforesaid.

IV. And be it further enacted, that if on any lot within the said rear blocks or divisions of land, not containing more than one hundred acres, there now is, or hereafter may be cut down, cleared and burnt off, and made ready for a crop, five acres thereof; or if there shall be a house built on the said lot, and a person or persons residing therein, it shall be lawful for the surveyors aforesaid, to excuse the owner or owners of such lot, and the person or persons residing thereon, as aforesaid, if any such there be, from performing the labour by this act required for such lot; but it shall and may be residing upon such lot as aforesaid, or the owner or owners thereof, where no person or persons is or are so residing to work on such new roads through the said rear blocks, under and by virtue of the several statutes now in force, or that may hereafter be enacted, for the repairing of highways, bridges and streets, throughout the province: and if upon any lot in the said rear blocks or divisions, containing more than one hundred acres, there shall be cut down, cleared and burnt off, and

made ready for crop, in the proportion of five acres to every one hundred acres thereof, it shall and may be lawful for the surveyors appointed under this act, in like manner as aforesaid, to excuse the owner or owners of such lot from performing the labour required by this act, but the said surveyors, shall as aforesaid compel such owner or owners to work on such new roads, for the number of days he or they is or are bound to labour on the highways by virtue of the statutes aforesaid; and the person or persons refusing or neglecting to perform on such new roads the labour required of them by the said statutes, are hereby made liable to all the fines and penalties in the said several statutes contained.

V. And be it further enacted, that when the said surveyors shall be unable to recover from any proprietor or proprietors of said land, the value of the labour he or they are bound to perform as aforesaid, the lands of such proprietor or proprietors shall be held charged with the same, and in case, at the end of three years, no person shall perform such labour, or pay the arrears due for the same from such delinquent proprietor or proprietors, it shall and may be lawful for the judges who hold the supreme court in the county of Sydney, upon complaint thereof made to them by the said surveyor or surveyors at any sitting of said court in said county, to order public notice to be given, in the Royal Gazette, to such delinquent proprietor or proprietors, that, unless he or they shall, within three months from the date of such notice, pay to the said overseers the arrears due by him or them respectively, together with the costs of such complaint and notice, that so much of the said lands, by him or them respectively owned, as will be sufficient to pay their said several arrears, will be sold; and in case it shall be afterwards made appear to the said supreme court, either sitting in said county or at Halifax, that all or any of the said arrears remain due and unpaid, it shall and may be lawful for the said court to direct an order to the sheriff of the county, or his deputy, to sell at public auction, in the same manner as if taken in execution, so much of such proprietor's said wilderness land as will be sufficient to pay their said respective arrears, together with such costs of complaint, charge and expenses of sale, and conveyance of such lands, as the said court shall tax and allow; and the said sheriff shall return his doing, on such order, at the next term for the sitting of the said court, when it shall be lawful for the court to confirm the doings of the sheriff, or to set the same aside, and order another sale as the case may require; and it shall be lawful for the said court, when it shall approve of such sale, to order the sheriff to execute a deed or deeds in fee simple to the purchaser or purchasers, which, when executed, shall make, to such purchaser or purchasers, a title as good and valid in law, as if executed by the person or persons owning the same, or their heirs or assigns, and the said court shall order the sheriff to pay over the amount of the arrears, so recovered, to the said surveyors, to be by them expended on said roads, and out of the residue of the proceeds of such sale, to pay such costs and charges as the said court shall have taxed and allowed. Provided always, that no sale shall take place of the lands of any absent proprietor, until the surveyors of said roads, or some one of them which shall have been appointed under this act, shall make and file an affidavit in the supreme court, stating that the proprietors of the lots who are resident within the county of Sydney, have fully performed all the labour upon the roads passing through the said lands, which by this act, they are bound to perform.

VI. And be it further enacted, that in each and every year during the continuance of this act, it shall be lawful for the said justices to appoint annual successors to the overseers for such roads, and to order them to proceed in opening and making the same, pursuant to the rules and regulations which the said proprietors may from time to time make and set forth in their memorials to the said justices. Provided, that all such memorials be signed and agreed to pursuant to the provisions contained in the first section of this act.

VII. And be it further enacted, that when the collector, to be appointed as herein before directed for the purpose of collecting the assessments from the said proprietors, for defraying the expense of making the said general survey, and laying out the said roads, shall be unable to recover from any proprietor or proprietors of said lands, his or their proportion of said expense, the lands of such proprietor or proprietors shall be held charged therewith, in like manner as with the arrears due for labour to be performed upon the said roads, under the provision of the fifth section of this act, and upon complaint thereof made to the judges who hold the supreme court in the county of Sydney by the said collector, in the same manner as is, by the said recited act, directed to be done by the surveyors of said roads, it shall be lawful for the said judges to order public notice to be given, and sales and conveyances to be made of so much of such delinquent proprietor or proprietors land, within the said rear division, in the same manner, and under the same provisions, regulations and restrictions, as are contained in the fourth section of the before recited act, as will be sufficient to pay their said respective arrears, together with such costs of complaint, charges of sale, and conveyance of such lands, as the said court shall tax and allow. The proceeds of such sale to be paid to the said collector for the purpose of defraying the aforesaid expense, with costs and charges as aforesaid.

VIII. And be it further enacted, that this act shall be, and continue in force for five years, and from thence to the end of the next session of the general assembly, and no longer.