

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday, the Eighth day of January, 1824, 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 Fourth Session of the Twelfth General Assembly, convened in the said Province.

4 George IV – Chapter 14

An Act to regulate the Expenditure of Monies hereafter to be appropriated for the Service of Roads and Bridges.

Be it enacted by the Lieutenant-Governor, Council and Assembly, that it shall and may be lawful, for the Governor, Lieutenant-Governor, or Commander in Chief, for the time being, by and with the advice of His Majesty's council, some time between the fifteenth day of April, and the fifteenth day of May, annually, to nominate and appoint fit and proper persons, being freeholders, to act as commissioners for directing and superintending the expenditure of such respective and repairing roads and bridges in the several counties and districts of this province.

II. And be it further enacted, that it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief, for the time being, by and with the advice of His Majesty's council, at pleasure, to remove all or any of the said commissioners, and to appoint from time to time in their places others, being freeholders as aforesaid; and the secretary of the province shall furnish the treasurer of the province with a list of the names of the commissioners, and the sums of money to be by them expended respectively; and also shall give due notice of all alterations made in the said commissions, and shall also, immediately after such appointments are made, transmit notice thereof to the persons appointed, and shall, within twenty days after such appointments, have the commissions for such commissioners, and the bonds to be entered into by them, ready for execution.

III. And be it further enacted, that the commissioners, so to be appointed as aforesaid, shall, before entering upon the duties of the said office, give good and sufficient security, by bond, with two sureties to the satisfaction of any two justices of the peace for the county or district where such respective commissioners may be appointed, in double the amount of the sum to be expended under their direction, faithfully to lay out and account for such sum according to law, and such justices shall certify their approbation, and the sufficiency of such sureties, upon the back of the bond, so to be entered into by the said commissioners; and such commissioners shall be entitled to retain and charge in their accounts, an allowance of five per cent. out of the money to be expended as aforesaid.

IV. And be it further enacted, that each and every commissioner, so to be appointed as herein before directed, shall be entitled to receive a warrant on the treasury for the whole sum to be expended; and it shall and may be lawful for the treasurer to retain in his hands

two thirds parts of the amount of such warrant until the whole of the work is complete, approved, and certified according to law.

V. And be it further enacted, that when contracts are intended to be entered into, due notice shall be given by the said commissioner, by posting up advertisements at least ten days in the places useful for public notices in the county, township, or district, and the said commissioners shall require and receive sufficient security from the contractor or contractors, for the performance of such contract, within the time therein specified, and in all respects conform to the true intent and meaning thereof, and shall transmit, to the secretary of the province, copies of all contracts made by such commissioners; and the said commissioners shall pay and satisfy to such contractor, from time to time as the work shall be proceeded in, monies on account, until one third part of the sum contracted for, shall have been paid and satisfied; but it shall not be lawful to pay the remaining two third parts until the whole work shall be completed and finished agreeable to contract, and certified as herein after directed; all which said contracts shall be made to expire on or before the last day of September in each year in which such contracts shall be entered into, and shall be in the words following:

Articles of agreement had, made, and agreement upon, this ____ day of ____ one thousand eight hundred and ____ between A. B. commissioner for ____ of the one part, and C. D. of ____ and E. F. and G. H. of ____ as sureties for the said C. D. of the other part, as follows, viz: the said C. D. and the said E. F. and G. H. as his sureties for the consideration hereinafter mentioned, do for themselves, their heirs, executors and administrators, covenant, promise and agree, to and with the said A. B. his executors and administrators, that he the said C. D. his heirs, executors and administrators, shall and will, on or before the last day of August next, in good and workmanlike manner, well and sufficiently ____ in consideration whereof, the said A. B. for himself, his heirs, executors and administrators, doth hereby covenant, promise and agree, to and with the said C. D., E. F. and G. H. their executors and administrators, that he the said A. B. his heirs, executors and administrators, shall, and will, well and truly pay, or cause to be paid, unto the said C. D. his executors or administrators, the sum of ____ in manner following, that is to say – One third part of the said sum of ____ from time to time, as the said work shall be proceeded in, and the remaining two third parts thereof, when the work shall be completed and finished, agreeable to this contract, and the certificate prescribed by this act, shall be obtained; and for the performance of the articles and agreements aforesaid, the said parties bind and oblige themselves, their heirs, executors and administrators, each to the other, in the penal sum of ____ firmly by these presents. In witness whereof, they have hereunto interchangeably set their hands and seals the day and year first above written.

Sealed and delivered, }
In presence of }

VI. And be it further enacted, that before any commissioner shall be entitled to draw the remaining two-thirds of the money so by him to be expended, he shall procure a certificate

from three or more justices in the general or special sessions, to be held for that purpose in each county or district where the said money shall have been expended, that the contract or contracts entered into have been faithfully executed, and the money voted for such work hath been properly laid out, which certificate, together with a schedule of all contracts and accounts relative to such expenditure, shall be, by the said justice, transmitted to the secretary of the province, for the inspection of His Majesty's council and the House of Assembly, on or before the first day of November, in each and every year: which certificate shall be in the words following, viz.

County of ____ in ____ sessions _____ day of ____ 18 _____

We, _____ of His Majesty's justices of the peace for the said county, do hereby certify that, by the examination on oath of _____ credible persons, taken before us, it appears that the foregoing contract or contracts (as the case may be) hath or have been faithfully executed, and that the sums respectively mentioned in said contracts (if more than one) hath or have been properly laid out and expended.

VII. And be it further enacted, that, in future, no commissioner shall be allowed to take or charge in his account, for his own services, any sum of money besides his commission by law established, unless such commissioner shall have been employed superintending day labourers, in which case he shall allowed five shillings per day out of the money granted for each day that he shall be employed overseeing, provided he shall have at least ten labourers at work throughout the day.

VIII. And be it further enacted, that no labourer upon the roads shall be allowed or paid a greater sum than four shillings for each day's work; and no labourer shall be paid for a days' work unless he shall have diligently laboured at least ten hours each day.

IX. And be it further enacted, that each and every commissioner who shall expend money by days' work shall, in addition to the receipts of the persons by him employed, for all monies paid, render an account thereof upon oath, in writing, in which such commissioner shall state that the account is just and true, and that the monies, by him expended, have been fairly and honestly applied to the purpose for which they were granted, and that he procured the best labour in his power to procure, and at the lowest rate of wages: which oath any one of His Majesty's justices of the peace are hereby required to administer without fee or reward.

X. And be it further enacted, that it shall and may be lawful for commissioners hereafter to be appointed, to enter into and extend contracts for the opening of new roads, and improving such as have not been used for wheel carriages, and for erecting bridges, until the thirty-first day of October.

XI. And be it further enacted, that the court of general session in the several counties and districts, shall have power to enquire into the expenditure of all sums of money heretofore

appropriated for the service of roads and bridges, which have not been accounted for as required by any former laws, made for regulating the expenditure of money on roads and bridges, and to certify the actual expenditure thereof according to the form prescribed by this act.

XII. And be it further enacted, that no commissioner, hereafter to be appointed, under and in virtue of this act, shall direct or superintend the expenditure of more than five hundred pounds, in any one year, in the making or repairing of roads and bridges aforesaid.

XIII. And be it further enacted, that the money to be appropriated for the making and repairing of roads and bridges, shall be expended by days' work, and not by contract, unless for the building or repairing of bridges, or the opening of new roads, and there shall not be employed in any one day more than forty labourers, to work under one commissioner, and the wages of such persons shall be paid in cash.

XIV. And be it further enacted, that for every ten labourers, daily employed by any one commissioner, as aforesaid, it shall be lawful for the said commissioner to employ a fit and proper person as foreman of labourers, who shall work with the said labourers, and take charge of such of them as are put under his directions; and shall work with, and superintend, the labourers in the absence of the said commissioner.

XV. And be it further enacted, that no foreman of labourers upon the roads shall be allowed or paid a greater sum than five shillings for each day's work; and no owner or owners of any team, consisting of a cart with a suitable driver and two horses or four oxen, shall be allowed or paid a greater sum than ten shillings for each day, or of any team, consisting of a cart, driver, and one horse, or two oxen, shall be allowed or paid a greater sum than seven shillings and six pence, for each day employed on the said roads; and no foreman of labourers, or labourer, or owner or owners of any team, shall be paid for a day's work, unless the said foreman of labourers, labourer, or team, shall have diligently laboured at least ten hours each day; and there shall be no further or other allowance for extra labour beyond the said ten hours each day.

XVI. And be it further enacted, that in case it be necessary or expedient for any of the said commissioners to procure materials for the repair of the roads, to which they may be appointed, it shall and may be lawful for the commissioner, where, from the absence or obstinacy of the owner or possessor of the soil, no agreement can be made with him, to enter with workmen, carts, carriages and horses, upon any unfenced and uncultivated lands, and therefrom to dig up, take and carry away, for the repair of the said roads, any stones or gravel, and also therefrom to cut down, and carry away, trees and bushes, for logs, poles and brushwood, to repair the said roads, and the damage done thereby shall be appraised and ascertained by the judgment of three indifferent freeholders, to be nominated by the nearest justice of the peace, for that purpose, and the sum so ascertained shall be paid by the commissioner to the owner of the soil, if demanded within three months from such appraisalment.

XVII. And be it further enacted, that in case any action shall be brought against either of the said commissioners, so to be appointed as aforesaid, by reason of any thing done by him in the execution of his office as commissioners as aforesaid, he may plead the general issue thereto, and give this act, and the special matter, in evidence on the trial of such action.

XVIII. And be it further enacted, that the said commissioner or commissioners shall examine the breadth of the roads within their respective districts, and when it shall appear that any encroachments or obstructions have been made, put or placed, in or upon the same, the said commissioner or commissioners shall, forthwith, give notice to the owner or occupier of the land adjoining the said road, that unless the said road shall be opened and cleared to its proper breadth within thirty days, the person or persons who shall have erected or continued the obstruction, will be prosecuted as the law directs.

XIX. And be it further enacted, that the said commissioners shall make an accurate return of the breadth of all such roads, and of the incumbrances thereon, to His Majesty's supreme court, or court of general sessions of the peace, for the county or district where the offence shall have been committed, at its next sitting, after the appointment of such commissioner or commissioners, in order that such proceedings may be thereupon had, as to the said court shall be deemed necessary and proper to carry into effect the provisions of the act relating to highways, roads and bridges, and for preventing nuisances.

XX. And be it further enacted, that this act shall continue in force for three years, and from thence to the end of the next session of the general assembly.