

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 21

An Act to amend an Act, passed in the fortieth year of His late Majesty, to amend an Act, passed in the first year of His said late Majesty's reign, for the repairing and mending Highways, Roads, Bridges and Streets, and for appointing Surveyors of Highways within the several Townships of this Province.

Whereas it frequently happens, that in setting the value of lands wanted for highways, the title to such lands comes in question, and other difficulties arise, which impede or delay the commissioners or overseers in carrying on their work, when it is found necessary to make new roads through improved or waste lands, for remedy whereof:

I. Be it enacted by the Lieutenant-Governor, Council and Assembly, that in case there should be at this present day, or at any time hereafter, any dispute respecting the title to any improved or waste lands through which it may be found necessary to make a new road or roads, or to cause any alteration or change of an old road, or relative to the value or damage which should be allotted to the owner or owners, tenant or tenants, occupant or occupants, of such lands, according to their several and respective interests, it shall not be lawful for the court of sessions and jury, to determine such dispute or disputes, and the jury in such case shall only determine what may be the value of the lands wanted for the public service, or the damage which the owners of waste lands may have sustained by reason of a new road having been laid out and made through the same, which verdict, when confirmed by the court of sessions, by the finding of the jury, and after due notice, that there is no dispute relative to the title of such lands, and no controversy relative to the sum or portions of the compensation money claimed by the several parties interested therein, in such case the said court shall grant a certificate to the party or parties whose right shall be so found and established without any adverse claim or controversy, which shall entitle him or them to receive the compensation money awarded.

II. And be it further enacted, that in all cases which now are, or may hereafter be, depending before the court of sessions, or supreme court, in which the jury shall have determined the amount of the whole compensation money, to be paid to whoever may be lawfully entitled thereto, but by reason of the dispute and controversy between the different claimants previous to the passing of this act, or in any case which may arise subsequent to passing the same, the jury shall have been unable to decide their respective claims, in all such cases the said court of sessions, after confirming and recording the verdict of the jury, shall return the whole proceedings to the supreme court, if the same be not already returned there, at its next sitting in the county or district where the lands lie, and the

parties claiming the said compensation money, or any part thereof, shall each deliver to said court, at such sitting, a petition, stating therein the nature of their respective claims, which the said supreme court, with the assistance of a jury, sworn for that purpose, shall proceed to hear and determine in a summary way; and the compensation money awarded in the sessions, shall, after such determination, (which shall be final between the parties) be paid over to the several parties contending for the same, pursuant to a certificate to be granted by the said supreme court for that purpose. Provided always, that in case all or any of the parties contending shall neglect or refuse to bring in their respective petitions at the said first sitting of the said supreme court, or at such future day as the said court may specially appoint for that purpose, in such case it shall be lawful for the said court to hear and determine the merits of such petition as may be brought before them, and to certify accordingly; and in case no petition shall be brought in, or that the court shall determine that none of the parties claiming shall have established a legal right to the whole, or any part of such money, in either case the court shall dismiss the cause, with costs, and leave the compensation money remaining, to be hereafter paid over to such other person or persons who shall, at a future day, establish before such court a legal right to receive the same.

III. And be it further enacted, that it shall not be lawful for any commissioner or commissioners of roads, now or hereafter to be appointed, to begin to lay out any new road, or to make any change or alteration in any old road, whereby any charge or expense of any kind whatsoever is to be brought on the province, either for the purchase of enclosed and improved lands, or for any special damage which may be done to the owner of any waste or unimproved land, until such commissioner or commissioners shall first lay before the Governor and council a plan or admeasurement of such new road, or alteration of an old road, accompanied by an estimate, made by three credible and well qualified persons, of the probable expense of purchasing enclosed or improved lands for such road or roads, and also the probable amount of any special damage which it may be necessary to pay for carrying such roads through waste and unimproved lands, together with an estimate of the probable expense of making each and every part of such new road, and the probable expense of any bridge or bridges, causeway or causeways, necessary to be made therein; and no commissioner or commissioners of roads shall, on any account, commence to work on any such new road, or alteration of an old road, until the same shall have been approved of by the Governor, Lieutenant-Governor or Commander in Chief, by and with the advice of His Majesty's council, and until such commissioner or commissioners shall have received, in writing, a copy of the order so made in council, for the work on such new road, or alteration of an old road, to commence and the said commissioner or commissioners, upon receiving such order in council, shall notify all persons interested in the lands that such order has been made, so that all necessary steps may be immediately taken for valuing, pursuant to law, the land or damage which it may be necessary to pay for the establishing such road or roads.

IV. And be it further enacted, that in all cases where compensation has been, or may hereafter be, adjudged to the owners of lands, to enable them to fence the sides of such new highway, payment of such compensation shall not be made to the said owner or owners, until such fences have been by him or them erected.

V. And be it further enacted, that in all cases where old roads have been heretofore, or shall hereafter be, changed and altered without the proprietor or proprietors of the land through which such new road or roads shall have been made and laid out, making any demand from the commissioner or commissioners of payment for the land taken for such new road or roads, and for which no compensation or payment shall have been afterwards made by the public, such acquiescence on the part of the proprietor or proprietors shall be deemed and taken to be voluntary surrender to the King for ever, for a public road or highway, of all the land through which such new road or roads shall have been laid out and made, the same to measure, in all cases, the full width of sixty-six feet from side to side; and it shall be lawful for the proprietor or proprietors of the land so surrendered and given up, to take, have and enjoy in fee simple, the whole of the land contained within the old road, so changed and altered, as aforesaid, in lieu of the land so given for the use of the public, without payment or compensation as aforesaid.

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