

*At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Wednesday, the First day of February, 1826, in the Seventh 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 Sixth Session of the Twelfth General Assembly, convened in the said Province.*

7 George IV – Chapter 3

**An Act relating to Highways, Roads and Bridges.**

Be it enacted by the Lieutenant-Governor, Council and Assembly, that it shall and may be lawful for the grand juries in the several courts of general or quarter sessions of the peace for the respective counties and districts in this province, at such terms as the said courts shall respectively direct, yearly and every year, to nominate so many fit and proper persons as they may consider necessary, as surveyors of highways, for each township or settlement; and the said court shall, from the persons so nominated, appoint as many as may be deemed expedient, to be surveyors of highways for the township or settlement for which they are so nominated; and the persons so appointed shall be sworn to the faithful discharge of the duties of that office; and any person, so appointed, having received notice thereof, who shall refuse to accept of the said appointment, or shall neglect to be sworn to the faithful discharge of the duties thereof, within fourteen days next after such appointment, or having accepted shall neglect his duty therein, shall forfeit for such refusal or neglect of duty the sum of five pounds.

II. And be it further enacted, that every person within each township or settlement, keeping any cart, team, or truck, shall send, on every day appointed by the surveyor of highways, one cart, or team, or truck, with two oxen or two horses, or with one horse, in case he owns no more, and one able man to drive the same, four days in every year, to work on the highways, roads, streets, or bridges, allowing eight hours to each day's work; and such person not attending, or neglecting to perform the said duty, shall forfeit, for every day's neglect, if owning two or more horses or oxen, ten shillings; and if owning one horse only, seven shillings; and that every other householder or other person, able of body, between the ages of sixteen and sixty, not being a military person, or holding a commission from His Majesty, in the military or civil department of the army, or an hired servant, minor, apprentice, journeyman, or day labourer, shall, on every day appointed as aforesaid, either by himself or other sufficient person to be hired by him, and provided with such necessary implements as shall be directed by the said surveyor, work, and continue so do to, for the space of six days in every year, on the said highways, roads, streets, or bridges, within the township or settlement where they respectively reside; and every hired servant, minor, apprentice, journeyman and day labourer, shall, on every day appointed as aforesaid, either by himself or other sufficient person, and provided with necessary implements, as aforesaid, work, and continue so to do, for the space of two days, on the said highways, roads, streets, or bridges, within the township or settlement where they respectively reside; and such

householder, hired servant, minor, apprentice, day labourer, or other person, not attending, or neglecting to perform the said labour, shall forfeit three shillings for every day's neglect.

III. And whereas, the labour of men may be more useful than the employing teams, carts, or trucks, in some townships and settlements.

IV. Be it therefore enacted, that when any surveyor of highways shall judge the labour of men more useful and necessary than that of carts, teams, or trucks, the persons who by this act are to supply carts, teams, or trucks, shall be, and they are hereby required under the like penalty, to send two labouring men, instead thereof, furnished with necessary implements as aforesaid.

V. And be it further enacted, that the constables for the several townships in this province, shall make out lists of all such persons who are owners of teams, carts, or trucks, as also for every other householder, and other persons liable to perform labour, under this act, within their respective townships, and the settlements adjoining, and deliver the same to the surveyors of highways; and the said constables, when required by the said surveyors, shall summon the said persons contained in the said lists to meet on such days, and at such places, as the said surveyors shall direct, to perform the labour required by this act.

VI. And be it further enacted, that the said surveyors of highways shall, at the most seasonable time, between the first day of April and the first day of November, yearly, (seed time and harvest only excepted,) cause the persons contained in their lists respectively to be summoned, giving them at least six days notice of the time and place where they are to be employed, and shall there oversee and order the persons so summoned, to labour in making and repairing the highways, roads, streets, and bridges, in the most useful manner, during the number of days required by this act, for each person to labour, and the surveyors of highways shall be excused from any other service on the highways than that of overseeing and ordering the persons employed thereon.

VII. And be it further enacted, that upon application to two of His Majesty's justices of the peace, the said justices shall and may, in their discretion, lessen the number of days labour to be performed by any poor person who cannot, without detriment to his family, perform the labour required by this act.

VIII. And be it further enacted, that all persons keeping carts, teams and trucks, who, being sixty years old, or upwards, are exempt from labouring on the said highways, or roads, shall nevertheless, when summoned so to do, send their carts, teams, or trucks, for four days, to assist in making or repairing the same.

IX. And be it further enacted, that it shall not be lawful for any surveyor of highways, with the consent of the owner of the land, to alter any highway, road or street, or make any repairs to any highway, road, or street, in any town, township or settlement, without the advice and consent of, at least, two justices of the peace.

X. And be it further enacted, that it shall and may be lawful for the surveyors of the highways, to order and direct the inhabitants in their respective districts, as often as they shall deem necessary during the winter, to work on the public highways, with their horses, oxen and sleds, in order that the roads may be rendered passable. Provided always, nevertheless, that no inhabitants shall be compelled to furnish more than one day's labour of himself or cattle, for any one fall of snow, or where the fall or drift of snow shall not exceed the depth of twelve inches.

XI. And be it further enacted, that every inhabitant refusing or neglecting to obey such order of the surveyor of highways, shall forfeit for each refusal, or neglect, the sum of ten shillings.

XII. And be it further enacted, that every surveyor of highways, shall yearly, at the expiration of his office, render to the court of general sessions of the peace, a true and faithful account, under oath, of all the labour expended by him; designating the names of the persons, and the labour performed by each, and of all the fines received by him, and shall pay the overplus, if any in his hands, to his successor, for the use of highways, under a penalty not exceeding ten pounds for each neglect.

XIII. And be it further enacted, that where any new highway or common road, from town to town, or place to place, in any county or district in this province, shall be wanting, and where old highways or roads with more conveniency may be altered, upon application being made to the court of general sessions of the peace, within the said county or district, the said court is hereby authorized and required to appoint three persons, being freeholders of the adjoining townships, having most occasion for the said highway, to inquire into the necessity and conveniency thereof, and to make their report thereon, and the same being judged to be of common necessity or conveniency, the said court shall issue a warrant to the sheriff, or his deputy, to summon a jury out of the adjoining townships, to meet at some convenient day and place therein mentioned, to view and lay out, or alter, such highway or road, who shall have an oath administered the same, to lay out, or alter such highway or road, according to their best skill and judgment, with most conveniency to the public, and least prejudice or damage to the owner or owners of the lands on which the said highway is to be laid out or altered, and to assess the damages to the owner or owners of such lands, as the said jury shall think reasonable for the value of the land, and improvements made on the same: and also for the making of fences on the sides of such highway, which having done, the said sheriff, or his deputy, shall make a return thereof on the day appointed by the said court, as well under his own, as the hands of the jurors, by whose oath the same is laid out or altered, 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 sixty-six feet wide.

XIV. Provided always, and be it further enacted, that before such highway or road is allowed, and recorded for a public highway, the court shall cause notice thereof to be given for the

space of thirty days, to the intent, that if any person shall think himself aggrieved thereby, he may make his complaint, and inquiry shall be made before the said court into the cause of such complaint.

XV. And be it further enacted, that the said damages, to be assessed as aforesaid, with the expenses incurred, shall be assessed and levied upon the inhabitants of the county or district wherein such highway lies, and collected in such manner as county rates are assessed, levied and collected.

XVI. And be it further enacted, that the surveyors of the highways of each township or settlement shall be, and they are hereby, authorized, to lay out particular and private ways, either open or pent, with swinging gates, for such township or settlement only as shall be thought necessary by the said court of general sessions of the peace, upon application made to them by the persons concerned and interested therein.—Provided, that no damage be done to any person in his land, or otherwise, without such recompense to be made by the township or settlement in which the said way may be laid out, as the surveyors of highways and the persons interested may agree, or as shall be ordered by the said court of general sessions of the peace, upon inquiry into the same, by a jury to be summoned for that purpose; and the sum or sums of money so agreed to be paid by the said surveyors of highways, or assessed by the jury as aforesaid, together with the expenses incurred, shall be assessed and levied upon the inhabitants of the township or settlement wherein such way lies, and collected in like manner as poor rates are assessed, levied and collected.

XVII. 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 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, agreeably to the twelfth section of this act, the land or damage which it may be necessary to pay, for the establishing such road or roads.

XVIII. 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.

XIX. 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 a voluntary surrender to the king forever, 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. Provided, that he or they shall be the owner or owners of the whole of the land on each side of the old road.

XX. And be it further enacted, that it shall be lawful for the Lieutenant-Governor, or Commander in Chief, for the time being, to grant his warrant upon the treasurer of the province, in favour of the person or persons who shall have obtained a verdict of a jury, in manner aforesaid, for the sums awarded in recompense of any land so required and taken for a public road or highway, and also for so much money as shall be sufficient to pay the expenses incurred about such valuation.

XXI. And be it further enacted, that if any juror, duly summoned by the sheriff, or his deputy, for any purpose required in this act, shall neglect to attend, or refuse to perform the duties required by this act, every such juror shall forfeit and pay for every such neglect or refusal, the sum of twenty shillings, to be levied by warrant of distress and sale of the offender's goods and chattels, on conviction of such offence before any two magistrates of the county or district wherein the offender shall be resident, and the sheriff or his deputy shall summon others in the place of those who may neglect to attend or refuse to be sworn until such jury shall be completed to the number of twelve.

XXII. And be it further enacted, that if any person or persons shall alter any public road or highway, or any private road, the same having been laid out and established by law, or shall make any encroachment thereon, not being lawfully authorized so to do, such person or persons so offending shall forfeit and pay the sum of five pounds.

XXIII. And be it further enacted, that any one of His Majesty's justices of the peace shall and may on his own view, or upon the oath of one credible witness, impose a fine not exceeding twenty shillings on any person who shall encumber any of the highways, roads, streets or bridges, in this province, by laying timber, wood, carts, trucks, rubbish or any other thing thereon, to be recovered by warrant of distress, and sale of the offender's goods and chattels, or in case such offender shall not be known or found, the same shall be recovered by sale of so much of the timber or wood, as the carts, trucks, rubbish or other thing, encumbering such road, or street as aforesaid, and be paid to the overseers of the poor, for the use of the poor of the town or place where or nearest the place where the offence shall be committed, rendering the overplus, if any be, to the owner, when discovered; and if the nuisance shall continue, the same shall be deemed a new offence, and shall be prosecuted and liable to the penalty aforesaid.

XXIV. And be it further enacted, that it shall and may be lawful for the courts of general sessions of the peace, for the several counties and districts, to make such rules and regulations as may be deemed necessary to prevent the side paths or ways along any public road or street from being injured or destroyed, and every person offending against such rules and regulations made, upon conviction thereof before one of His Majesty's justices of the peace, shall forfeit a sum not exceeding forty shillings, nor less than five shillings, to be levied by warrant of distress, and sale of the offender's goods and chattels, and shall be applied towards the repairs of such side paths or ways.

XXV. And be it further enacted, that if any person or persons shall at any time hereafter draw, or cause or suffer to be drawn, along the Windsor road or Hammond Plain road, on his or their cart, truck or waggon, or other wheel carriage, having wheels whereof the feloes are of a less breadth than six inches, any logs, timber or other lumber, not being for the actual use of their own farms and buildings, he or they shall be liable to, and shall on every day to be appointed by the surveyor of highways, respectively attend in person, or send one able man, provided with such necessary implements as shall be directed by the said surveyor, to work on the said road for two days, in respect of every horse or ox used at any one time during such year, in drawing logs, timber or other lumber, on any such cart, truck, waggon, or other wheel carriage, over and above the labour herein before required to be performed.

XXVI. And be it further enacted, that if any person or persons who shall be liable to perform the aforesaid labour on the said roads, being duly notified, shall refuse or neglect to attend, or to send one able man to work as aforesaid, he or they shall forfeit and pay four shillings for every day's neglect.

XXVII. And be it further enacted, that if any person or persons shall trail on any of the roads or highways, within this province, when the same are bare of snow, or the frost in the ground insufficient to support the cattle travelling thereon, any logs, timber or other lumber, he or they shall forfeit and pay for every such offence, a fine not exceeding twenty shillings,

nor less than five shillings; to be recovered before any one of His Majesty's justices of the peace for the county or district, wherein the offence may be committed, who may impose the same on his own view, or on the oath of a credible witness; to be levied by warrant from off the goods and chattels of the offender.

XXVIII. And be it further enacted, that no person residing upon any island within this province, where there are any highways or roads in which the performance of any labour by this act may be enforced, shall be compelled to work upon any highway, road, street, or bridge, situate or being upon the main land, or to furnish any labourer, cart, team, truck, oxen or horses, for the said service, nor be liable to any penalty or penalties for neglecting or refusing so to do, but each and every person residing on any such island, and liable to perform labour under this act, shall be obliged to perform the same upon some highway, or public road, as aforesaid, upon the island on which he resides.

XXIX. And be it further enacted, that where any island shall be connected with the main land by a causeway, bridge, or bridges, the person residing on such island who shall be liable to perform such labour as aforesaid, shall be obliged to perform such part of the same as may be required in the keeping in repair or rebuilding such causeway, bridge or bridges.

XXX. And be it further enacted, that all fines and forfeitures directed to be paid by such person or persons as shall neglect to attend and perform the labour, and furnish the teams, carts and trucks, required by this act for the repairs of highways, roads, streets, or bridges, shall be sued for, and recovered with costs of suit, by the surveyors of highways before one or more justices of the peace, in like manner as debts are sued for and recovered; which fines, and forfeitures, so recovered, shall be applied to the repairs of the said highways, roads, streets and bridges.

XXXI. And be it further enacted, that all other fines and forfeitures, not being less than five pounds, as aforesaid, imposed by this act, shall be recovered, with costs of suit, by bill, plaint or information, in any court of record in this province, one moiety thereof to be paid to the person or persons who shall sue for the same, and the other half to be applied to the repairs of highways, roads, streets and bridges within such township or settlement, as the court of general sessions of the peace, for the county or district where the offence was committed, shall direct.

And whereas, the cutting down the trees and underwood, on the shores of the harbours, lakes, and waters of this province, near to which any public highway is made, has been found injurious to such road, and exposes the same to be filled up with snow – for remedy thereof,

XXXII. Be it enacted, that, after the publication of this act, if any person or persons shall cut down, or otherwise destroy, any trees or underwood growing or being upon the land lying between any river, lake, or arm of the sea, in this province; and any public road or highway, made, or to be made, within thirty feet from the margin or shore of any such river, lake, or arm of the sea, every person so offending shall, on proof thereof, by the oath of one credible

witness, before any one of His Majesty's justices of the peace for the county wherein the offence shall be committed, forfeit and pay a sum not exceeding forty shillings; to be levied in the same manner as fines for the non-performance of highway labour, and to be paid and applied, one half to the informer, and the other half to some one of the surveyors of highways, for the benefit and improvement thereof.

XXXIII. And be it further enacted, that the act, made and passed in the first year of the reign of His late Majesty George the Third, entitled, "An Act for the repairing and mending Highways, Roads, Bridges and Streets, and for appointing Surveyors of Highways within the several Townships in this Province;" and also the act, made and passed in the fifth year of His late Majesty's reign, in addition to, and amendment of, the said act; and also, an act, made and passed in the thirteenth and fourteenth years of His said late Majesty's reign, in further amendment of the said act; and also, an Act, made and passed in the nineteenth year of His said late Majesty's reign, entitled, "An Act to explain, amend, and render more effectual, the several Laws of this Province, for repairing and mending Highways, Roads, Bridges and Streets;" and also, the act, made and passed in the twenty-third year of His late Majesty's reign, in further addition to, and in amendment of, the act first mentioned; and also, the act, made and passed in the twenty-eighth year of His said Majesty's reign, in amendment of the said act first mentioned; and also, an act, made and passed in the fortieth year of His said Majesty's reign, in further addition to, and amendment of, the said act first mentioned; and also, an act, made and passed in the fifty-sixth year of His said Majesty's reign, in further amendment of the said act, first mentioned; and also, of an act, passed in the fifth year of His said late Majesty's reign, in addition to, and amendment thereof; and also, an act, in addition to, and amendment of the several acts now in force, for repairing and mending highways, roads, bridges and streets, and for appointing surveyors of highways within the several townships in this province. And all other acts made in addition to the first act before mentioned; also, the act, made and passed in the thirty-second year of His late Majesty's reign, entitled, "An Act to prevent the Windsor and Hammond Plain Road being injured by heavy loaded Carriages;" and also the act, made and passed in the forty-fourth year of His late Majesty's reign, entitled, "An Act to relieve a certain description of persons from sundry inconveniences arising from an Act, passed in the thirty-second year of the Reign of His present Majesty, entitled, 'An Act to prevent the Windsor and Hammond Plain Road being injured by heavy loaded Carriages;' and to extend the said Act, in amendment thereof, to the Township of Windsor;" and also, an act, made and passed in the fifty-first year of His late Majesty's reign, entitled, "An Act in further addition to, and amendment of, the several Acts for the choice of Town Officers, and regulating of Townships," shall be, and are hereby repealed. Provided always, that any statute by any of the aforesaid statutes repealed, in whole or in part, shall remain repealed.