

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday, First day of February, 1827, in the Eighth 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 First Session of the Thirteenth General Assembly, convened in the said Province.

8 George IV – Chapter 23

An Act in addition to, and amendment of, the Act relating to Highways, Roads and Bridges.

Be it enacted by the Lieutenant-Governor, Council and Assembly, that the justices in the general sessions of the peace, in and for each of the several counties and districts in the province, shall and may, and they are hereby authorized, at any general sessions of the peace, to be holden in such counties and districts, to grant permission to any person or persons in the said counties and districts, to perform his or their highway or statute labour, in the said several counties and districts upon such roads as they, the said justices, shall direct and appoint; and the faithful performance by him or them of such statute or highway labour, in pursuance of such permission, shall be deemed and taken to be the doing and performing his or their statute labour. Provided, that such person or persons as may obtain such permission shall, within one month after the performance of such statute or highway labour, obtain from the surveyor of highways, for the district in which such person or persons shall reside (who if the said labour has been faithfully performed, is hereby required and directed to grant the same,) a certificate or certificates of the due performance by such persons of such labour; which said permission and certificate or certificates shall be a bar to any action to be brought against such person or persons, under or by virtue of the act of which this act is an amendment.

II. And be it further enacted, that the respective courts of general sessions of the peace, in each and every of the counties and districts of this province, are hereby authorized to direct such and so many gates and bars as the said courts, in their several general sessions of the peace, may think fit to be placed and kept upon private and particular ways, heretofore or hereafter to be laid out in the said several counties and districts; and the said courts respectively, are hereby authorized to make such regulations respecting the placing and keeping the said bars and gates upon such private and particular ways, as they for that purpose, may think expedient and proper to appoint.

And whereas, the mode observed by road commissioners, for laying out new roads, and valuing the lands through which it may be necessary to make the same, pursuant to the provisions of the thirteenth and seventeenth sections of said act, has been found tedious and expensive, for remedy whereof:

III. Be it enacted by the Lieutenant-Governor, Council and Assembly, that whenever any commissioner or commissioners of roads, shall receive an order of council, under the provisions of the said act, to go to work on a new road, or to alter an old one, he shall

immediately after notify all persons interested, as by said act is directed, and require the parties so interested, to nominate one fit and proper person, to act in conjunction with a person to be appointed by the said order of council, to act as an appraiser on the part of Government, for the purpose of laying out the highway or road so ordered to be made or altered, and valuing the land wanted for the same; and the two persons so nominated and chosen, shall take and subscribe an oath or affidavit before one of His Majesty's justices of the peace, faithfully and impartially to lay out such road in the way most advantageous to the public, and least prejudicial to the owner of the lands, and to appraise and value the lands wanted for such road; the damages to such owner or owners; and after being sworn, it shall and may be lawful for the two persons so chosen, to enter upon the lands through which such road is to be made or altered, and to lay out, measure and mark the same, and to value and appraise such lands, and to assess the damages to the owner or owners, tenant or tenants, of such lands, according to the just and reasonable value of the same, in the same manner as the said act directs a jury to do; which valuation being made in writing, and accompanied with the plan and admeasurement of said road, shall be returned to the prothonotary or deputy prothonotary for the county or district in which such lands lie, who shall lay the same before one or more of the judges of the supreme court, or the senior judge, and one or more of the judges of the inferior court for such county or district, and such judge or judges shall thereupon make an order for the parties interested, to shew cause, by a short day, why such plan and valuation should not be established and confirmed, and after hearing the parties, in case they desire to be heard, it shall be lawful for said judge or judges either to confirm, or set the same aside, as the case may require; and to order another valuation and appraisement to be made by the same persons, which shall be final between all the parties; and in case the persons so appointed, cannot agree upon a plan and valuation of such road, then each of such referees shall make a separate plan of such road, with the valuation thereof, and return the same to the said protonotary, and the said judge or judges shall, immediately after such return, nominate and swear a fit and proper person to act as an umpire between the said referees; and the determination of such umpire, made in writing, in conjunction with one or both of said referees, shall be final and conclusive, and be made a record of the said supreme or inferior court, and the parties shall be entitled to be paid the amount according as the law directs. Provided always, in case the parties interested when called on as aforesaid, shall neglect or refuse to nominate a person to make such valuation as aforesaid, it shall and may be lawful for the said commissioner to give notice of such refusal to the said prothonotary or deputy prothonotary; and it shall and may be lawful, for one or more of the said judges of the supreme court, or for the senior judge of the court of common pleas, for the county or district to order the parties interested in the lands so wanted, to shew cause, by a short day, why he or they refuse to nominate an appraiser as aforesaid; and in case he or they persist in refusing to make such nomination, or shall fail or neglect to shew sufficient cause to justify such refusal, it shall and may be lawful for such judge or judges, to nominate and swear a fit and proper person to act on behalf of such person or persons, in conjunction with the person named in such order in council, for the purpose of laying out and valuing such road, and the proceedings of the persons so nominated shall be equally as good and valid as if he had been chosen by the parties

interested; and the said judge or judges, in case of disagreement, shall nominate an umpire and proceed in the same manner as herein before directed.

IV. And be it further enacted, that it shall and may be lawful for the said commissioners, or the parties interested in the lands, to complain to one or more of the judges of the supreme court, or to the senior judge, and one or more of the judges of the said inferior court, in case either of them shall think there has been any error in the proceedings herein before directed, and it shall be lawful for the said judges to hear and examine into the cause or causes of such complaint, and to ratify the same, if necessary; or otherwise, if occasion shall require, to set the whole proceedings aside, and to nominate and swear three fit and proper persons, to lay out such road, and make such valuation; and the determination of such referees, or any two of them, when confirmed and recorded with the prothonotary, or his deputy, by the order of such judges, shall be final and conclusive.

V. And be it further enacted, that the provisions contained in the said acts, which direct new roads and alterations of roads to be laid out, and valued by a jury, shall be no longer observed or acted upon; but all future plans and valuations of such roads, shall be made as in and by this act is directed; and such plans and valuations, when so made as in and by this act is directed; and such plans and valuations, when so made, confirmed and recorded, shall be to all intents and purposes as good, and valid as if the same had been made by the sessions and jury, as in and by the said act is directed, it being the true intent and meaning of this act, hereafter to substitute the laying out of new roads and alteration of old roads, with the plans and valuations made by referees or appraisers, under the directions of the said judges, in the place and stead of the same proceedings, which the said act has directed to be performed by justices of the peace, special sessions of the peace, clerks of the peace, sheriffs and juries.