

Ordinances of the Lieutenant Governor and Council of His Majesty's Province of Cape Breton passed in the year 1803. National Archives of the United Kingdom CO 219/2.

43 George III – Chapter 2

An Ordinance for the Appointment of Commissions to manage and Superintend the Expenditure of the Public Revenues and for other purposes tending to the Public benefits and Improvements of the Island.

Whereas it hath been Judged expedient that Commissioners be appointed to Manage & Superintend the Expenditure of the Public Revenues of this Island and for other purposes tending to the public benefit and Improvement thereof

Be it therefore Ordained & Ordered by His Honor the President by and with the Advice and Consent of His Majesty's Council, And by the Authority of the same, It is hereby Ordained & Ordered That the Governor, Lieutenant Governor, President or Commander in Chief for the time being shall and may from time to time Nominate & Appoint five fit and proper persons to be Commissioners for Managing and Superintending the Expenditure of the Public Revenue. which said Commissioners so Appointed, or to be Appointer or any those of them empowerd and authorized to assemble and meet from time to time to Consider the Necessity and Public Utility of making and repairing any Roads or Bridges, Erecting Mills and other matters tending to the Public benefit and Improvement of the Island – And to report unto and lay the same before the Governor, Lieutenant Governor, President or Commander in Chief for the time being together with an Estimate of the Expences which in their opinion any such Road, Bridge, Mill or other Public Improvement shall or may Cost

And be it further Ordained & Ordered by the Authority aforesaid, that when the Governor, Lieutenant Governor, President or Commander in Chief shall approve of any such Report & Estimate, and shall order any such Road, Bridge, Mill, or other public Improvement to be made, repaired, erected or done. They the said Commissioners, or any three of them, shall forthwith proceed to Comply with and carry into immediate effect any such Order to them directed in such manner as to them in their Judgement and Discretion shall seem best.

And the Governor, Lieutenant Governor, President or Commander in Chief is hereby Authorised and empowerd to issue and deliver unto the said Commissioners or their Order, the full Amount of any such Estimate so approved as aforesaid, which Warrant shall specify to what particular purpose the money is applied or to be applied – And the Treasurer aforesaid is hereby required to pay the Amount of any such Warrant or Warrants on demand to the said Commissioners, or to the Order of any three or more of them

And be it also Ordained & Ordered by the Authority aforesaid, that when and so often as the necessity and Public Utility of making any New Road shall be reported Approved & Ordered as aforesaid, the said Commissioners shall forthwith proceed to lay out the same and they are hereby empowered to cause the same to be laid out and made in such manner as they shall

judge to be most Convenient for the Public and of least damage to Individuals. Provided always that when it shall be judged necessary for the Public convenience to lay out and make any such New Road or any part thereof through improved and inclosed Lands, the said Commission shall make a just Compensation for any Damage occasioned thereby to the Proprietor of Proprietors or Tenant or Tenants of such Land

And be it further Ordained and Ordered that in all cases where the Commissioners and the Proprietors or – Tenants of such improved and inclosed Lands cannot agree on a just Compensation for Damages as aforesaid – The Chief Justice or in his absence the first Assistant Justice of His Majesty’s Supreme Court on application of any such proprietor or proprietors, Tenant or Tenants shall forthwith Issue a Order or Precept under the Seal of said Court, Commanding the Provost Marshal or his Deputy to enquire by the Oath of twelve good and lawful Men what damage the Plaintiff or Plaintiffs in such Writ hath sustained by occasion making such New Road through inclosed and Improved Lands and to make doe return of said Writ on some Day of the next ensuing Term of said Court, together with the Inquisition found as well under the hand and seal of the Provost Marshal or his Deputy, as under the hands and seals of the Jurors aforesaid of the taking of which Inquest the Plaintiff or Plaintiffs in such Writ shall cause due Notice to be given in Writing to the said Commissioners at least eight Days before the taking thereof And upon filing any such Return and Inquisition; The Chief or other Justices of the said Court shall four Days after such filing Confirm the said Inquisition; And shall order the Damages found therein, together with Costs of Suit (being duly taxed) to be paid and satisfied, Unless the said Comissioners shall shew sufficient cause to the Contrary –

Provided however that no Cause shall be Admitted by the said Court except such Causes as would be sufficient in Law to Quash an Inquisition found on any usual writ of Inquiry – And also provided that no Cost shall be taxed or allowed to the Plaintiff or Plaintiffs in such Cases, unless the Damages found and assessed by the Inquest aforesaid shall exceed the sum previously tendered by the said Commissioners – And the Governor, Lieutenant Governor, President or Commander in Chief for the time being shall Grant a Warrant on the Public Treasury for the Payment of any sum or sums that may be agreed upon or assessed and Confirmed as foresaid, in like manner as herein before directed for other Public Expenditure

And be it further Ordained and Ordered by the Authority aforesaid that the said Commissioners shall have Power to enforce and they and each of them are hereby empowered and directed to enforce and carry into effect the several Laws and Ordinances or Surveyors to be prosecuted According to Law, for any default, Omission, or Neglect of Duty by them or any of them done or Committed in their said Office

And be it further Ordained and Ordered by the Authority aforesaid that if any Suit or Action at Law shall be brought or prosecuted against the said Commissioners for any matter, act, or thing, by them or any of them, done or to be done by Virtue or Authority of this Ordinance, the Defendants in such suit or Action, shall in all Cases be admitted to enter a Common Appearance, and shall have leave to plead the General Issue, and give the special matter and this Ordinance in Evidence, And in case Judgement shall be given for the Defendants, or that

the Plaintiff or Plaintiffs become Non suit in such Action the Defendants shall recover their Damages with double Costs of suit

And be it also Ordained & Ordered by the Authority aforesaid that this Ordinance shall Continue and be in force for the space of three years and no longer

Approved Ordained and Ordered accordingly
in Council this 12th January in the 43rd Year
of His Majesty's Reign –
John Despard M. General
& President of Council

Passed in Council
the 12th January 1803

A true Copy
Will Plant: D: C: Council