

CAP. II.

4 W. 4, c. 43. An Act to amend an Act, intituled *An Act to provide for the payment of Interest on Warrants which are not paid at the Treasury on demand.*

Passed 29th March 1843.

Preamble.

6 **W**HEREAS doubts have arisen whether under the provisions of an Act made and passed in the fourth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to provide for the payment of Interest on Warrants which are not paid at the Treasury on demand*, it is lawful for the Treasurer of the Province to pay any Interest due on Warrants, payment of which has been demanded, unless the Warrant itself shall be paid at the same time;

4 W. 4, c. 43.

Interest to be paid semi-annually on 1st June and 1st December.

Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and may be lawful for the Treasurer to pay to the holder or holders of Warrant or Warrants, all sums of money which may be due upon such Warrants for Interest upon the same, although the principal of such Warrants cannot be paid for want of funds in the Treasury; and also the Interest to become due upon all Warrants semi-annually, on the first day of June and the first day of December in every year until such Warrants are paid.

CAP. III.

An Act to provide for the repair of the Streets and Highways in Fredericton.

Passed 11th April 1843.

Preamble.

6 **W**HEREAS the increase of Population in Fredericton renders an improvement in the mode of providing for the repair of the Streets and Highways necessary;

£500 to be annually levied on a described part of the Parish of Fredericton for the repair of the Roads.

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, the sum of five hundred pounds shall be annually levied and assessed upon all that part of the Parish of Fredericton, bounded on the Southwest by the rear line of the grant to the Governor and Trustees of the College of New Brunswick, and its prolongations Northwesterly and Southeasterly to the upper and lower lines of the said Parish, for the purpose of repairing, improving and maintaining the Streets, Highways and Bridges situate therein, by an equal rate of five shillings each upon the Poll of all the male inhabitants within that part of the said Parish of the age of sixteen years and upwards, not being paupers or exempts as hereinafter mentioned, and by a rate in just and equal proportions upon the real property situate within that part of the said Parish, and upon the personal property and incomes of the inhabitants thereof; which sum shall be assessed by the Commissioners, and laid out in improving, repairing and maintaining the Streets, Highways and Bridges in that part of the said Parish above described, according to the best discretion of the said Commissioners or the major part of them, subject nevertheless to the provisions of this Act, which sum so levied and assessed shall be denominated "The Fredericton Road Fund."

Upon whom to be assessed.

Commissioners to make out a Road List as herein specified.

II. And be it enacted, That it shall be the duty of the Commissioners of Highways already appointed or that may hereafter be appointed from time to time for the Town or Parish of Fredericton or the major part of them, to meet at such times and places as they may agree upon, and without delay, make out a Road List for that part of the said Parish above described, with columns therein: the first or left hand column to contain the names of such persons as are rateable within the Parish, both resident and non-resident: the second column to contain the amount

of the Poll Tax of five shillings each, to be paid by each inhabitant: the third column to contain the amount of real property within that part of the Parish of Fredericton above described, owned by each inhabitant: the fourth column to contain the amount of the personal property of each inhabitant: the fifth column to contain the real estate of non-residents: the sixth column to contain the annual income of such male inhabitants from whatever source derived, except from real or personal property situate in that part of the said Parish above described, and taxable under this Act: the seventh column to contain twenty per cent. of the before mentioned value of real and personal estates: the eighth column to contain the said sums so reduced to twenty per cent., and the said sums of annual income; and when any inhabitant has both annual income and twenty per cent. of the value of property set opposite his name in the said sixth and seventh columns, such sums shall be added together and set in the eighth column; and the amount so to be raised and assessed after deducting the whole amount of Poll Tax therefrom, shall be apportioned among the several persons so named in exact proportions to the sum in the eighth column set opposite to their respective names: the ninth and last column shall contain the several sums so apportioned with the addition of the Poll Tax, and shall be denominated "Total Road Tax," and shall be in the following form, that is to say:

"Road List for all that part of the Parish of Fredericton, bounded on the South-east by the rear line of the grant to the Governor and Trustees of the College of New Brunswick, and its prolongation to the upper and lower lines of the said Parish, made under and by virtue of an Act of the General Assembly, passed in the sixth year of the Reign of Queen Victoria, intituled *An Act to provide for the repair of the Streets and Highways in Fredericton.* Dated the — day of — A. D. 184 ."

Form of Road List.

Names of Persons	Poll Tax	Real Estate of Inhabitants	Personal Estate of Inhabitants	Real Estate of non-residents	Annual Income	20 per cent of value of Property	Amount to be Taxed	Total Road Tax
A. B.	5s.	£300 0 0	£100 0 0	£0 0 0	£0 0 0	£60 0 0	£60 0 0	£1 9 0
C. D.	5s.	300 0 0	100 0 0	0 0 0	50 0 0	80 0 0	130 0 0	2 17 0
E. F.	5s.	0 0 0	0 0 0	200 0 0	0 0 0	40 0 0	40 0 0	1 1 0
G. H.	5s.	0 0 0	0 0 0	0 0 0	20 0 0	0 0 0	20 0 0	0 8 0
J. K.	5s.	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 5 0

And the said Commissioners or the major part of them shall, as soon after the said Road List is made out as they conveniently can, deliver the same to the Collector of the Road Tax signed by them, and having endorsed thereon a precept under their hands in the form following, that is to say:

To be delivered to the Collector of Road Tax with a Precept endorsed.

"To A. B., Collector of Road Tax for Fredericton.—You are hereby required forthwith to collect from the several persons named in the annexed Road List, the sums set against their names respectively, under the last column thereof, intituled "Total Road Tax," and to pay the same, when collected, into our hands. Given under our hands the — day of — in the year of our Lord 184 ."

III. And be it enacted, That if any person liable to be assessed for the repair and improvement of the Roads in that part of the said Parish above described, shall at any time before the Road List is made out, furnish the Commissioners with an account in writing of the value of his real or personal property or income, liable to be assessed under this Act, deducting therefrom his just debts duly attested to before one of Her Majesty's Justices of the Peace, then it shall be the duty of the said Commissioners to value such property at the sum specified in such account, and no more.

Property to be valued agreeably to attested accounts where such are furnished.

Meaning of certain words in this Act.

IV. And be it enacted, That in the construction of this Act the terms "Real Estate" and "Real Property" shall be construed to include Land and any Building and other thing erected on or affixed to Land, and any term or terms for years in Land; and the terms "Personal Property" and "Personal Estate" shall be construed to include all Goods, Chattels, Monies and Effects, and all Debts due from solvent Debtors, whether on Account, Contract, Promissory Note, Bond or Mortgage, and all Public Stocks or Securities, and all Stocks or Shares in Joint Stock, Banking or Insurance Companies: Provided always, that nothing herein contained shall extend to render liable to taxation under this Act the Real or Personal Property of any Religious, Literary or Charitable Corporation, Society or Institution, or of any Joint Stock Banking or Insurance Company, carrying on business in that part of the Parish of Fredericton above described.

Exemptions from taxation.

One of the Surveyors of Highways to be appointed collector of Road Tax.

V. And be it enacted, That the Commissioners of Roads for the Parish of Fredericton, or the major part of them, shall appoint one of the Surveyors of Highways for the said Parish a Collector of Road Tax for that part of the said Parish above described, and insert his name in the precept mentioned in the second section of this Act, and in case of his death, resignation or removal from office, to appoint another in his stead, and so from time to time as a vacancy may occur, and in case of such subsequent appointment, to indorse on the said list a precept in manner aforementioned authorizing such new Collector to collect the said Road Tax or to complete the collection thereof previously commenced.

Persons overrated may appeal to the General Sessions who may grant relief.

VI. And be it enacted, That any person thinking himself aggrieved and overrated in the said Road List, may appeal to the Justices of the Peace for the County of York at their next General Sessions after he shall have had notice of the said Assessment, and the Justices shall examine into the said appeal, and if the said Justices shall be satisfied the appellant hath been assessed too high, they may give such relief as they shall think just, by allowing the appellant such sum as he may be overrated out of his Road Tax for the next year: Provided always, that no such appeal shall be heard unless the appellant shall within one month after he has received notice of the said Assessment, file an Affidavit in the office of the Clerk of the Peace of the County of York, particularly specifying his Real and Personal Property and Income liable to taxation under this Act, and give notice thereof to the said Commissioners or some one of them in writing.

Road Tax to be collected as pointed out in 1st Vic. c. 7, s. 7 and 8.

VII. And be it enacted, That the Collector appointed in manner aforesaid, shall proceed to collect the Road Tax assessed under this Act in the same manner and subject to the same provisions in all respects as the Collectors of County and Parish Rates are authorized and empowered to do by the seventh and eighth sections of an Act made and passed in the first year of the Reign of Her present Majesty Queen Victoria, intituled *An Act to provide for the better Assessment of County and Parish Rates.*

Exempts from taxation.

VIII. And be it enacted, That the Commissioners of Highways for the said Parish of Fredericton, regularly ordained or Licenced Clergymen of any Denomination of Christians, not having property or income for which they are liable to be assessed under the provisions of this Act, other than the annual salary or stipend they may receive for their Parish or Spiritual charge, Emigrants who have arrived in the Province within the year for which the Assessment is made, and regularly appointed Firemen, shall be exempt from taxation under this Act: Provided always, that the Commissioners aforesaid or the major part of them, shall and may with the assent of any two Justices of the Peace for the County of York, remit either in whole or in part the payment of the Road Tax levied under this Act from any infirm or indigent persons, as they in their discretion may deem just and proper.

Infirm and indigent persons may be exempt by Commissioners with assent of two Justices.

IX. And be it enacted, That all Books, Papers, Writings and Accounts, and all Materials, Tools and Implements which shall be provided in pursuance of this Act for repairing and improving the Highways or Streets in that part of the Parish of Fredericton above described, and also the Streets and Highways therein situate, and all scrapings of the said Streets and Highways, and all Stones and Quarries, and standing Trees thereon, shall be vested in the Commissioners of the said Parish for the time being, and they or the major part of them, shall and may bring or prosecute any action, suit or proceeding at Law or in Equity in their own name, as for their own property, for any infringement thereto, incumbrance thereon or any interference therewith by any person or persons whereby the public may sustain any detriment; and such suit, prosecution or proceeding, shall and may be brought and prosecuted in the name of *The Commissioners of Highways for the Parish of Fredericton*, without mentioning their individual names, and may be continued and prosecuted by their Successors in office, notwithstanding a change in the person of the said Commissioners, and all action and rights of action shall enure to the said Commissioners; and in any such suit or proceeding, any inhabitant of the said Parish shall be deemed a competent witness, notwithstanding his liability to taxation under this Act.

Property vested in the Commissioners who may maintain actions in the name of *The Commissioners of Highways for the Parish of Fredericton*.

Inhabitants of Fredericton deemed competent witnesses.

X. And be it enacted, That the said Commissioners, or the major part of them, shall and may in their discretion survey the Town Plat of Fredericton, and such other parts of the said Parish above described as they may deem advisable, and procure a proper Plan of such Survey for the use of the Commissioners for the time being, the reasonable expense of which Survey and Plan to be defrayed from the "Fredericton Road Fund;" and it shall be the duty of the said Commissioners, or the major part of them, to cause to be removed all encroachments from the said Streets or Highways, in order that the said Streets and Highways may be restored to their full width, according to the original Plan and Survey of the said Parish: Provided always, That when such encroachments consist of dwelling houses or other erections of a permanent nature, such removal shall not be compelled, except in case of the destruction of such encroachments by fire or the decay or dilapidation thereof: And further Provided, That the Surveyor who shall make the Survey herein authorized shall be sworn before one of Her Majesty's Justices of the Peace to the faithful performance of the work, previous to his making such Survey.

Commissioners may cause a survey of the Town to be made, and cause all encroachments to be removed.

Proviso for encroachments of a permanent nature.

XI. And be it enacted, That all contracts or expenses incurred for repairing or improving the said Streets or Highways by the Commissioners for the time being or the major part of them, shall be binding upon their successors in office as fully and effectually to all intents and purposes as if such contracts were made or expenses incurred by the said Commissioners, and they shall pay such expenses and discharge such contract out of the first monies which shall come into their hands after such contracts or expenses fall due.

Contracts and expenses for repairing the Streets to be binding on the successors of the Commissioners contracting.

XII. And be it enacted, That whenever the said Commissioners or a major part of them shall deem it advisable to improve the Promenades or Sidewalks in the populous parts of the said Parish of Fredericton by laying down Wood or Stone, or otherwise, they shall provide one half of the expense of making such improvements from the Fredericton Road Fund, and the other half they shall levy and assess in manner provided for in this Act upon the proprietors of Houses and Land abutting on the said Side walk or Promenade so to be improved or immediately benefited thereby; which Assessment shall be collected in the same manner and subject to the same provisions as the Rates prescribed by this Act, shall and are required to be collected by this Act.

Expense of improving side walks to be defrayed from the Road Fund and by assessment for the purpose.

Monies may be appropriated for the improvement of Public Landings, although without the limits of a Highway or Street.

XIII. And be it enacted, That the Commissioners shall have power and authority from time to time to appropriate such sums from the monies levied and assessed under this Act for the improvement and protection of the Public Landings, Public Squares, and Banks of the River Saint John, in that part of the said Parish above described as they may deem absolutely necessary for the improvement or preservation thereof, when such Landings, Squares or Banks are not within the limits of any Highway or Street.

Hauling buildings on the Streets, between 15th March and 15th December.

Penalty.

XIV. And be it enacted, That every person or persons who shall, at any time between the fifteenth day of March and fifteenth day of December in each and every year, draw or haul any House or Building whatever on any part of the said Streets or Highways above described, shall for each and every offence forfeit a sum not less than three pounds nor exceeding ten pounds, in the discretion of the Justice before whom such offender shall be prosecuted; and every person or persons who within the said period of time shall drag or haul on any of the said Streets or Highways, any Log, Boards, Timber or Scantling, without securing the same from touching the said Streets or Highways, shall for each and every offence forfeit and pay a sum of not less than ten shillings nor exceeding twenty shillings, in the discretion of the Justice before whom the offender shall be prosecuted; which penalties with costs of suit, shall and may be recovered before any one Justice of the Peace upon the Oath of one or more credible Witness or Witnesses, and levied by Warrant directed to any Constable of the Town or Parish of Fredericton, by distraining the Goods and Chattels of the offender or offenders, and when no such effects are to be found, the offender or offenders to be imprisoned in the common Gaol of the County of York, for a period of time not exceeding one day for every two shillings of the said penalty.

Hauling any Logs, &c., without securing the same from touching the Street

Penalty.

Recovery.

Road List, and account of monies received and expended, &c., to be annually filed with the Clerk of the Peace.

XV. And be it enacted, That the Commissioners of Highways for the said Parish of Fredericton or the major part of them, shall on or before the last day of December in each and every year, file with the Clerk of the Peace for the County of York, a correct copy or duplicate of the Road List or the original Road List, with a correct account of all the monies they may have received or expended, specifying the mode of expenditure, and the vouchers, and a statement of the balance in hand (if any), also a list of the persons excused, and the cause thereof, a statement of any contract made for work not then performed, with the amount due the Contractors, with such other information and statements as will enable their successors in office to ascertain with clearness and certainty the true state of their engagements and liabilities, in order that the same may be audited in the same manner as other County or Parish Accounts, and should any monies remain on hand, such monies shall be paid to their successors in office.

Majority of Commissioners in office to be annually re-appointed.

XVI. And be it enacted, That from and after the passing of this Act, a majority of the Commissioners of Highways for the Parish of Fredericton in office at the end of the year for which they shall be appointed shall be annually re-appointed.

Collector of Road Tax to be compensated.

XVII. And be it enacted, That the Commissioners of Highways or the major part of them shall allow the Collector of Road Tax such compensation for his trouble, not exceeding four per cent, as they may deem proper.

Road Tax deemed legal, although it exceed £500 by 20 per cent.

XVIII. And be it enacted, That the Road Tax authorized by this Act shall be deemed legal, although the aggregate amount thereof shall exceed the sum of five hundred pounds, provided the difference shall not exceed twenty per cent.

Public reserved plots of ground, &c., to be deemed Highways and under the supervision of the Commissioners.

XIX. And be it enacted, That all the public reserved Plots of Ground, Squares and Landings in that part of the Parish of Fredericton, affected by this Act, shall be deemed Public Highways for the purposes of this Act, and under the immediate supervision and control of the Commissioners: Provided always, That nothing herein

herein contained shall affect or in any wise interfere with the rights of the Crown to any such reserved Plots of Ground, Squares and Landings, or of any person or persons deriving any interest therein from the Crown.

Rights reserved.

XX. And be it enacted, That all contracts for repairing or improving the Roads and Highways in that part of the Parish of Fredericton affected by this Act, shall be made by public competition after ten days Public Notice of the making of such contracts shall have been given by the Commissioners, or the major part of them.

Contracts for repairing Roads, &c., to be made by public competition.

XXI. And be it enacted, That no person shall be exempted from taxation under this Act, by reason of his having performed Statute Labour in any other Parish in this Province.

No exemption from taxation by reason of labour performed in another Parish.

XXII. And be it enacted, That the operation of the third, seventeenth, eighteenth, nineteenth, twentieth, twenty first, twenty second, twenty third, twenty fourth, twenty fifth, twenty sixth, twenty seventh, twenty eighth, thirty first, thirty fourth, thirty fifth and thirty sixth Sections of an Act made and passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to repeal all the Laws now in force for regulating, laying out, and repairing Highways and Roads, and for appointing Commissioners and Surveyors of Highways in the several Towns and Parishes of this Province, and to make more effectual provision for the same*, and also the operation of the first, second, third and sixth Sections of an Act made and passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled *An Act in amendment of the Act relating to Highways* be suspended in that part of the said Town or Parish of Fredericton affected by this Act during the continuance of this Act: Provided always, that all the other provisions of the said several Acts shall during the continuance of this Act be, and continue in full force and effect in that part of the said Parish of Fredericton affected by this Act, as fully to all intents and purposes as if the provisions thereof were herein specially enacted.

Certain Sections of 5 W. 4, c. 2, and

6 W. 4, c. 2, suspended.

XXIII. And be it enacted, That this Act shall continue and be in force for two years and no longer.

Limitation.

CAP. IV.

An Act in addition to and in amendment of the Law of Bankruptcy.

Passed 11th April 1843.

6 **W**HEREAS it is expedient to amend the Law of Bankruptcy;

Preamble.

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That an Act made and passed in the fifth year of the Reign of Her present Majesty, intituled *An Act relating to Bankruptcy in this Province*, be and the same is hereby repealed, in so far as the same may be inconsistent or at variance with the provisions of this Act; provided always that the same shall continue in force in all other respects whatsoever.

5 W. 4, c. 43, repealed so far as inconsistent with this Act.

II. And be it enacted, That all persons whosoever residing in this Province owing debts to the amount of not less than two hundred pounds, currency, shall be liable to become Bankrupts within the meaning of this Act, and may be declared Bankrupts upon such petition and proof or by such Declaration in writing of his Insolvency as by the said recited Act is required, and that the petition so to be made shall and may state that the person against whom such application is made, is owing debts to an amount to be in no case less than the said sum of two hundred pounds.

Persons owing £200 of debts may become Bankrupts and declared such as in 5 V. c. 43.

III.