

## CAP. IV.

## An Act relating to Highways.

Passed 11th April 1850.

I. **B**E it enacted by the Lieutenant Governor, Legislative Council and Assembly, That 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 in this Province, and to make more effectual provision for the same*; also an Act made and passed in the sixth year of the same Reign, intituled *An Act in amendment of the Act relating to Highways*; also an Act made and passed in the fifth year of the Reign of Her present Majesty, intituled *An Act to continue the Acts relating to Highways*; also an Act made and passed in the sixth year of the same Reign, intituled *An Act to amend the Laws now in force relating to Highways*, be and the same are hereby repealed; provided always, that all appointments of Commissioners or Surveyors of Highways heretofore made under the authority of any of the said Acts hereby repealed, shall be and remain good, valid and effectual, until other Commissioners and Surveyors are appointed in their stead, under the authority of this Act; and that every act, matter and thing heretofore done under the authority of any of the said Acts, shall be and remain good, valid and effectual, in the same manner to all intents and purposes as if the said Acts had not been repealed; provided also, that all fines and penalties imposed under the authority of any of the said Acts, may be proceeded for, recovered, collected and applied in the same manner in all respects as if the said Acts had not been repealed.

5 W. 4. c. 2.

6 W. 4. c. 2.

5 V. c. 23.

6 V. c. 24.

repealed.  
Reservations.

II. And be it enacted, That it shall and may be lawful for the Justices of the Peace in and for the several Counties in this Province, at their General Sessions, and they are hereby authorized and empowered, in all cases where they may deem it advisable so to do, to divide the respective Parishes into Districts, not to exceed however the number of Commissioners appointed for such Parish, and to nominate and appoint a Commissioner of the said Parish, with such number of Surveyors as the said Justices may think necessary to each District; and in such cases it shall be the particular duty of the Commissioner or Surveyors of each District to enforce and superintend the performance of the Statute Labour of such District only, and not of the adjoining Districts, and to make return thereof as hereinafter required.

Parishes may be divided into Districts, and Commissioners and Surveyors appointed by the General Sessions.

III. And be it enacted, That the Commissioners, or the major part of them, in their respective Towns or Parishes for which they shall be appointed, are hereby empowered to lay out such Public Highways as they or the major part of them shall think most convenient, as well for travellers as for the inhabitants of each Town or Parish and the next adjacent Towns, Villages and neighbourhoods.

Commissioners to lay out Highways.

IV. And be it enacted, That whenever any of the Roads and Streets already laid out, used and occupied as Public Highways, shall, in the opinion of the said Commissioners, or a majority of them, appear to be inconvenient, and an alteration in width or otherwise shall appear to be necessary, then the said Commissioners, or a majority of them, shall give notice to the inhabitants of the intended alteration, by posting up such notice in three or more of the most public places in such Town or Parish, at least one month previous to the time of the alteration so intended to be made, which said notice shall point out the time and place of such intended alteration; and it shall be the duty of the said Commissioners to attend at the time and place specified in such notice, and then and there proceed to make the

Alterations in Highways may be made, unless objected to by one third of the freeholders or occupiers.

the necessary alteration in width or otherwise, unless such alteration shall then be objected to by the owner or owners of the land over which the Road may pass, or by at least one-third part of the freeholders or occupiers of land in such Town or Parish.

Alteration being objected to, a Jury may be summoned and alteration made if declared necessary.

V. And be it enacted, That when any such intended alteration shall be objected to, then any five or more of the freeholders of such Town or Parish may apply to two of Her Majesty's Justices of the Peace for a Warrant, which Warrant it shall be the duty of the said Justices to direct to the High Sheriff, his Deputy, or any Constable within the County, commanding such High Sheriff, Deputy, or Constable, to summon a Jury of twelve disinterested freeholders or occupiers of land in the said County, who shall be sworn before any one of the said Justices, to examine the said Road; and the said Justices, or either of them, are also hereby empowered and required, at the instance of either party, to call before the said Jurors at the time and place appointed, such witnesses as may be required to give evidence in and respecting all cases of damage or other matters that are by this Act required to be decided and determined by the verdict of such Jurors; which witnesses shall be subpoenaed under the hand of any one of the said Justices, and sworn before either of the said Justices in the usual manner, and for refusal or neglect to attend and give evidence when so required, shall be subject to such damages as persons neglecting or refusing to attend and give evidence when duly summoned are made subject and liable to by an Act made and passed in the fourth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to regulate proceedings before Justices of the Peace in Civil Suits*; and all expenses attending the summoning, swearing and attendance of such witnesses, shall be estimated by the said Jurors, and paid by such party and in such manner as the said Jurors may determine and assess; and if said Jury after such examination, shall unanimously declare that an alteration is necessary, then shall the Commissioners forthwith proceed to make the alteration in manner pointed out by the Jury; and in case the said Road so altered shall pass through or extend upon any improved lands, or shall occasion the removal of any buildings or fences, then and in all such cases the damages shall be ascertained and assessed by such Jury at the time of laying out the same as aforesaid; provided that in cases where the alterations made occasion a new Road to be opened, and the old Road or any part thereof, in consequence of such alteration, is allowed to be shut up, and revert to the owner of the land through which such altered Road passed or extends, the Jury in assessing the damages occasioned by such alteration, are authorized and empowered to take into consideration the value of the old Road or any part thereof, thus shut up, in diminution of the damages; and that in all cases where Roads are laid out, altered or extended by virtue and authority of any Act relating to Highways, the Commissioner or Commissioners, Surveyor or Surveyors, as the case may be, shall have full power and authority, and they are hereby authorized to enter upon and open all such Roads so laid out, altered or extended, and from the same to remove any fences, buildings and obstructions, any law, custom or usage to the contrary notwithstanding.

4 W. 4. c. 45.

Jury to assess damages when alteration affects improved lands, &c.

All Roads deemed Highways for which public money has been appropriated, and expended.

VI. And be it enacted, That all and every Road and Roads in this Province, for and upon which any money has heretofore been appropriated by the Legislature out of the public moneys of this Province, and expended, and of which no records have been heretofore made or kept, shall be deemed and used, and the same are hereby declared and confirmed to be Public Highways or Roads, for the use and benefit of the Public, in as ample and full a manner as if the same had been laid out and recorded under and pursuant to the provisions and regulations of any Act of this Province for laying out and repairing Highways.

VII.

VII. And be it enacted, That if any Public Road hereafter to be laid out by virtue of the third section of this Act shall pass through any improved lands, the damage to the owner or owners of such lands, by means of such Road, shall be ascertained by a Jury to be summoned in the manner mentioned and directed in the fifth section of this Act, on the application of the owner or owners of said land; or if such Road shall occasion the removal of any fences or buildings, then and in such cases the damage to the owner or owners of such land, occasioned by the removal of such fences or buildings, shall also be ascertained by such Jury; and that in all cases where a Jury is summoned for any of the purposes provided by this Act, the Justices issuing the Warrant for the summoning of such Jury, or one of them, are hereby required to attend and preside at such inquest or examination.

Damages for Roads laid out under Sect. 3, to be assessed by a Jury summoned as in Sect. 5.

VIII. And be it enacted, That the said Commissioners shall and may in all cases when the Jury shall have assessed the damages for the owner or owners of any land over which a Road may have been laid out or altered either by the said Commissioners or a Jury, lay before the Justices of the said County at their General Sessions, the assessments so made by said Jury, which assessment the said Justices are hereby authorized and required to examine and allow, and to make order for the payment thereof by the inhabitants of such Parish or Parishes in the said County as they the said Justices shall think ought to bear the same, and in such proportion upon each Parish as they the said Justices shall think just and reasonable, and thereupon shall issue their Warrants to the Assessors of such Parish or Parishes for the assessing and levying the several sums allowed and ordered as aforesaid; which sums shall be rated, assessed and collected in such manner and under the same regulations, restrictions, penalties and forfeitures as County charges are rated, assessed and collected, and shall be paid into the hands of the persons for whom such damages may have been assessed.

Assessment of damages to be laid before the Sessions and order made for payment.

IX. Provided always, and be it enacted, That if any Road or Highway so to be laid out or altered, shall not, in the opinion of the said Commissioners, be necessary or useful for the Parish generally in which the same is situated, but intended merely for the particular convenience of a certain portion, district or neighbourhood, whether lying wholly in one Parish or between two or more Parishes, they shall report the same to the said Justices in General Sessions, specifying in such report the bounds and limits of such portion, district or neighbourhood, together with the names of the persons resident in the same, which said Justices are hereby authorized and required to examine into the matter, and if they shall be of the same opinion as the Commissioners, then to appoint two or more persons within the said district or neighbourhood to be Assessors, who shall thereupon assess the damages which may be sustained in laying out such Road, upon the said persons resident in the said district or neighbourhood, in the same manner as if such district or neighbourhood were a distinct Parish, and the like proceedings may be had for levying and recovering the said assessment as are now provided for the collection of other rates for County charges.

Roads not considered necessary for the Parish generally, to be reported to the Sessions, who may appoint Assessors, &c.

X. 'And whereas it may be necessary to lay out private Roads within the several Counties in this Province; Be it enacted, that upon application to the Commissioners appointed as aforesaid for any Town or Parish for a private Road, the Commissioners shall view the same, and if they are of opinion that such Road is necessary, may, with the written consent of the owner or owners of the land, proceed to lay out the same, and if any objection be made by the owner or owners of the land, then a Jury of twelve disinterested freeholders shall be summoned in manner as directed in and by the fifth section of this Act, either

Private Roads may be laid out by the Commissioners on application, consent, &c.



either on the application of the said Commissioners, or any of the parties interested; and in case the said Jurors under oath, shall be of opinion that the said Road is necessary, then the said Commissioners are hereby empowered to lay out such Road; provided that they shall not lay out such Road through any person's land without the consent of the owner or owners thereof, to be expressed in writing as aforesaid, or agreeing with or paying to him or them the value of the land so to be laid out into such Road, with such damages as he or they may sustain by the said Road; and in case they cannot agree, then the true value shall be set and appraised by the oath of the said freeholders so summoned; and all the expenses and charges attending the said Road shall be paid by the person or persons applying for the same; provided always, that no such private Road shall be laid out more than two rods wide against the consent of the owner or owners of the lands through which the same is to pass.

Width of Highways

XI. And be it enacted, That the width of all Highways or Public Roads hereafter to be laid out, shall be left to the discretion of the Commissioners for the time being of the Town or Parish where such Highways or Public Roads may be laid out, so that they do not exceed six rods, and are not less than four rods.

Fees of Jurors and officer summoning.

XII. And be it enacted, That in all cases where a Jury shall be summoned under any of the provisions of this Act, the said Jurors shall be allowed for their services respectively, for each time they shall be so summoned, the sum of two shillings and six pence each; and the Officer who shall summon the same shall be allowed the sum of ten shillings for his services in summoning such Jury, and attending them; and the whole of the sum necessary to bear such expenses shall be deposited in the hands of the said Commissioners by the person or persons applying for such Jury, previous to the issuing of the Warrant by the Justices for summoning such Jury; and the said Commissioners are hereby required to pay the Officer summoning the said Jury his legal fees for such service, and also, on return of the verdict, to pay the said Jurors the sum of two shillings and six pence each as aforesaid; and in all cases where such Jury shall return an affirmative verdict, in any way connected with a Public Road or Highway, the amount of expenses in this section named shall be included in the assessments provided in the eighth and ninth sections of this Act, and collected as therein directed, as the case may be, and when collected, paid over to the person or persons who may have advanced the same.

Altered parts of Roads may be shut up when not settled by erection of Houses, &c.

XIII. And be it enacted, That whenever any alteration is made in any Highway or Road in the Province pursuant to the provisions of this Act, and the part or parts of such Road or Highway between the points of such alteration are not settled, by the erection of dwelling houses thereon, and where the alteration so made shall not cut off any proprietor from the Road so altered, then and in such case it shall and may be lawful to and for the Commissioners of Highways in the Town or Parish where such alteration may be made, to order and direct that the said points between such alteration may be stopped up and enclosed by the proprietor or proprietors of the lands between such points of alteration as aforesaid, after which order and direction the said old Road shall no longer be considered public; provided always, that the altered or new part of the Road shall, in the opinion of the Commissioners, be made equally as good and as passable for travellers as the old Road, before the latter shall be shut up and enclosed as aforesaid.

Unnecessary Roads may be shut up on consent of owners, &c.

XIV. And be it enacted, That the Commissioners of Highways in the respective Towns or Parishes for which they shall be appointed, be and they are hereby authorized and empowered, by and with the consent of all the owners of the land  
over

over which any Road may pass, to shut up and stop the same ; provided that the said Commissioners shall be of opinion that such Road shall not be required for the convenience of the inhabitants of the Town or Parish in which any such Road is situated, or of the inhabitants of the next adjoining Towns, Villages and neighbourhoods.

XV. And be it enacted, That the Commissioners for each Town or Parish for which they shall be appointed, shall from time to time enter in writing all the Highways or Roads laid out, altered or shut up, as the case may be, and sign the same ; and within three months after such Highway or Road shall be laid out, altered or shut up as aforesaid, make a return thereof into the Office of the Clerk of the Peace for the County in which such Highways or Roads are situate, to be by such Clerk entered in a Book kept for that purpose, which return shall distinctly designate the marks, bounds and lines by which the Highway or Road so laid out, altered or shut up, may be known and ascertained ; and whatsoever the said Commissioners shall do according to the powers given them in this Act, being so entered, shall be valid and good to all intents and purposes whatsoever ; and that every Commissioner or Clerk of the Peace who shall refuse or neglect to perform the duty enjoined and required of each of them as aforesaid, shall forfeit and pay for every such refusal or neglect the sum of three pounds, to be recovered and applied in the same manner as directed in and by the twenty third section of this Act.

Return of Highways laid out, altered or shut up, to be made to the Clerk of the Peace for registry.

XVI. And be it enacted, That if any person or persons do or shall hereafter alter, stop up or encroach on any Street, Highway or Public Road, by laying timber, wood, rubbish, stones, carts, trucks, or any thing thereon, or by having gates or doors opening towards and hanging over the Streets, Highways, or Public Roads, such persons so offending contrary to the true intent and meaning of this Act, shall for every such offence forfeit the sum of forty shillings, to be recovered, with costs of suit, before any one Justice of the Peace, upon the oath of one or more credible witness or witnesses, and levied by Warrant directed to the Constable of the Town or Parish where such offence shall be committed, by distraining the goods and chattels of the offenders ; and where no such effects are to be found, the offender or offenders to be imprisoned for six days ; or in case such offender shall not be known or found, the said articles (if saleable) shall be forfeited and sold by the order of the said Commissioner, or the Surveyor, after three days public notice, unless sooner claimed, and the proceeds arising from such sale shall be applied to the repairing of such Streets or Highways ; and in case such encumbrances be of a nature not to produce any thing by the sale thereof, then the said Commissioners or Surveyors shall be empowered to employ any person, liable to labour on the Highways, to remove such encumbrances ; which person shall be allowed therefor according to the time he may be employed, to be deducted from the time he shall be by law liable to work on the Roads, Streets or Highways.

Illegally altering, stopping up, or encroaching on Streets or Highways.

Penalty & recovery.

XVII. And be it enacted, That the Highways, Roads, Streets and Bridges within each County, shall be cleared, maintained and repaired by the inhabitants thereof, and that all male inhabitants of the age of eighteen years and upwards, (with the exception of all denominations of regularly ordained Clergymen, not having property for which they are liable to be assessed for labour under the provisions of this Act, and licenced Schoolmasters actually employed as such, not having property for which they are liable to be assessed for labour under the provisions of this Act, and Emigrants arriving from Great Britain or Ireland, who shall have arrived in the Province within the year for which the assessment is made,) shall

Highways, &c. to be maintained by the inhabitants of eighteen years and upwards.  
Exceptions.

Scale of labour.

Labour of indigent persons may be lessened or remitted

List of inhabitants, with the number of days labour each is liable to perform, to be made out and published.

Additions may be made to the list.

Money may be received in lieu of actual labour.

To be expended on the Roads after advertisement, &c.

Surveyors, by direction of the Commissioners, to summon the inhabitants to work on the Roads between the

shall work, either in person or by able and sufficient men in their stead, in each and every year, provided with such necessary implements as shall be directed by the respective Surveyors, the number of days (allowing eight hours actual labour, and no more, each day) hereinafter provided, that is to say: Indentured apprentices, and all persons above the age of eighteen years, and under twenty one years of age, two days; and other persons of the age of twenty one years and upwards, four days; and in addition thereto, for every one hundred pounds of value of his real and personal estate, one day; or for every twenty five pounds of annual income, one day; provided always, that no person shall be liable to perform labour for both property and income; and provided also, that no person shall be liable to perform more than sixty days labour in any one year; and that it shall be lawful for any two of Her Majesty's Justices of the Peace, upon application of any infirm and indigent person, to remit the whole or such part of the labour as is required to be performed by such infirm and indigent person, as they in their discretion may think just and proper.

XVIII. And be it enacted, That the Commissioners, or the major part of them, in each Town or Parish, for the time being, shall, by the first day of May in each and every year, make out a list of the inhabitants in such Town or Parish, and assess the number of days work to be performed by each person under the provisions of this Act, according to the best of their judgment; which list, with the number of days so assessed upon each person, shall be advertised by such Commissioners in the most public place in such Town or Parish; and the said Commissioners shall also furnish the Surveyors in their respective Districts with a list of the inhabitants of such District, and the number of days work so to be done by each, and shall within fifteen days direct the said Surveyors at what places the work shall be done, which work shall be done by such inhabitants, under the direction of such Surveyors; and it shall further be the duty of the said Commissioners to add to their respective lists the names of such persons as may come into their respective Parishes to reside after the said first day of May, except Emigrants as before excepted, and to fix and assess the number of days work to be performed by such persons, unless they produce a certificate of their having performed their respective proportions of labour in some other Town or Parish.

XIX. And be it enacted, That if any person in such list named prefer paying money to doing such labour, it shall and may be lawful for such Commissioners, or in cases where the Parish is divided into Districts, for the District Commissioner to take and receive from such person the sum of one shilling and three pence for each day's labour required to be done by him; and the moneys which may be paid in lieu of such labour, as well as forfeitures which may be received by virtue of this Act, shall be laid out under the direction of such Commissioners, or where the Parish is divided into Districts, by the Commissioner of the District, on such Highways, Roads, Streets and Bridges, between the first day of May and first day of October in every year; and it shall further be the duty of such Commissioner or Commissioners receiving such sum or sums of money, to give six days notice, by public advertisement within the District, of the time and place where they respectively intend to expend the same, and to attend at the time and place so appointed in such advertisement, and let out the said work by public auction to the lowest bidder.

XX. And be it enacted, That it shall be the duty of the Surveyors of Highways in the several Parishes in this Province, when so directed by the Commissioners or Commissioner of the District, at the most fit and suitable time between the first day of May and the first day of September in each and every year, to summon the

the inhabitants of their respective Districts, by giving notice at least six days previous to the commencement of the work, either by personally notifying the inhabitants respectively liable to work, or by leaving a written or printed notice at the last place of residence of the person or persons intended to be notified, or by publishing notice in writing of the time and place at which the inhabitants of each District are to assemble to commence their Statute Labour, in one of the most public places in each District; which notice shall contain the names of the persons in the District, in which the same is published, liable to work, and also the number of days labour required to be performed by such persons respectively, with the implements of labour they are severally required to bring with them; and the said Surveyors shall then proceed to expend the labour of the persons so summoned, in making, mending or improving the Highways, Roads, Streets and Bridges, in the most useful manner, during the number of days appointed for each person to labour, subject nevertheless to such orders and directions as the said Surveyors may from time to time receive from the Commissioner or Commissioners; and when any Surveyor of Highways shall judge the use of wagons, carts, trucks, ploughs or harrows more necessary than the labour of men, in that case such Surveyor may call on any person or persons within the District keeping any wagon, cart, truck, plough or harrow, with two good oxen or two horses; which wagon, cart, truck, plough or harrow, with two good oxen or two horses, with a competent driver, shall be equal to four days labour.

1st of May and the 1st September in each year.

Wagons, carts, ploughs, &c., may be called for.

XXI. And be it enacted, That it shall be the duty of the respective Surveyors, on or before the tenth day of September in each and every year, to make and deliver to the Commissioner or Commissioners respectively, correct Returns of the Statute Labour performed in their respective Districts; which returns shall contain the names of all persons liable to perform Statute Labour within their respective Districts, with the number of days work performed by each person, and also the number of days for which any person may be delinquent.

Surveyors to make returns to the Commissioners by the 10th of Sept.

XXII. And be it enacted, That every person when called upon by any one of the said Commissioners, shall within twenty four hours give and render to the said Commissioner a particular account and statement in writing, containing the names of all persons who may be in his, her or their employ, or who may be resident in the house kept or occupied by such person or persons, and who may be liable to perform labour on the Highways; such statement to contain not only the names of persons belonging to his, her or their family, but also the names of any boarders, lodgers, and domestic servants, who may be liable as aforesaid; and if any such person or persons shall neglect or refuse to render such account when so called upon, or shall give and render a false or incorrect account or statement, he or she shall forfeit or pay a sum not exceeding five pounds, to be sued for and recovered by any one of the Commissioners of the said Parish, before any one Justice of the Peace in and for the said County in which the said Parish is situate; and the penalty, when recovered, to be paid into the hands of the Commissioners, to be by them applied in making and repairing the Roads within the said Parish.

Statement of boarders, workmen, servants, &c., to be given to the Commissioners when called for.

XXIII. And be it enacted, That if any person or persons when duly notified to labour by the Surveyors of their respective Districts, shall neglect or refuse to appear and labour agreeably to such notice, and shall also neglect to pay the sum of one shilling and three pence for each day's labour as aforesaid, it shall be the duty of such Surveyor, within six days after such neglect or refusal, to make report of such delinquency to some one of the Commissioners, who shall without delay make complaint in their own names to a Justice of the Peace, against every such

Parties who neglect to perform labour or pay the commutation, to be reported to the Commissioners, who shall proceed against them before a Justice.



such delinquent, which Justice shall on conviction adjudge every such delinquent to pay the sum of two shillings for every day he has so neglected to appear and labour, together with costs of suit, to be levied by Warrant of distress and sale of such offender's goods and chattels under the hand and seal of such Justice, directed to any Constable of the Town or Parish to which such offender may belong; and in case no goods or chattels can be found, it shall and may be lawful to commit such offender to the common gaol of the County, for a space of time not exceeding six days; and if any person who shall appear agreeably to such notice, and being under the direction of such Surveyor, shall refuse or neglect to work, or shall not work in such manner as to satisfy such Surveyor, he is hereby empowered to dismiss such person from the work, and shall forthwith make complaint against him, to some one of the Commissioners, who shall immediately proceed against him in the same manner as is hereinbefore directed to be done against persons neglecting to appear and labour, after being duly notified; and the person so dismissed by such Surveyor for such delinquency shall be adjudged to pay the sum of two shillings for every day he shall have neglected or refused to work to the satisfaction of such Surveyor, agreeably to such notice, or be liable to imprisonment not exceeding six days, in the manner hereinbefore mentioned; provided that nothing in this Act contained, shall extend or be construed to extend to any City, Town, or Parish, for which special or local Acts relating to the Statute Labour are now in force.

Persons appearing and not working satisfactorily may be dismissed and proceeded against.

Persons neglecting to furnish a wagon &c. when called upon, to be proceeded against.

XXIV. And be it enacted, That in case any person keeping any wagon, cart, truck, plough, or harrow, with two oxen or two horses, when called upon as aforesaid by such Surveyor, shall refuse or neglect to furnish such wagon, cart, truck, plough or harrow, with two oxen, or two horses, with a competent driver, agreeably to such direction of such Surveyor, it shall in like manner be the duty of such Surveyor forthwith to make complaint of such offender last mentioned, to some one of the Commissioners, who shall immediately proceed against him in the same manner as is directed in the last preceding section, and such offender last mentioned shall be adjudged to pay the sum of eight shillings for every day he shall have so neglected or refused to furnish such wagon, cart, truck, plough or harrow, with two oxen or two horses, with a competent driver, agreeably to such direction of such Surveyor, or be liable to imprisonment for a space of time not exceeding six days in the manner in the same section mentioned.

In prosecutions Justice may issue a *Capias* on the oath of a Commissioner or Surveyor.

XXV. And be it enacted, That in all prosecutions against delinquents for the recovery of fines under any of the provisions of this Act, it shall and may be lawful for the Justice before whom any prosecution shall be instituted, on application by the Commissioner or Commissioners suing for such fine, and upon oath made by such Commissioner or Commissioners, or the Surveyor, or other person, of the offence or delinquency committed, to issue a *Capias* against such delinquent, and to hold him to bail for the amount of the fine sought to be recovered, in which case, the *Capias*, Bail Bond, return and proceedings generally shall be, as near as may be, in manner and form pointed out, made and provided in the said Act passed in the fourth year of His late Majesty King William the Fourth, intituled *An Act to regulate proceedings before Justices of the Peace in Civil Suits*.

4 W. 4. c. 45.

Windfalls may be removed, bridges repaired, &c., between periods of performing Statute Labour.

XXVI. And be it enacted, That during the intervening time between the finishing the Statute Labour in any one year, and commencing the same in the next succeeding year, it shall and may be lawful for the Commissioners of Highways, or any one of them, in the several Towns and Parishes within this Province, to direct the Surveyors of Highways, or any of them, from time to time, as occasion may require, to remove all trees and windfalls from and out of the Roads, and to repair



repair all Bridges and all such parts of the Highways that shall require reparation and amendment within their respective Districts, and also to provide such materials as may be necessary for making and repairing such Roads and Bridges; and the said Surveyors or any of them, are hereby authorized and required when so directed, to summon so many of the inhabitants of the said Parish as may be necessary to work after such manner as the said Surveyor or Surveyors shall direct, in removing such trees or windfalls, and in repairing such Roads and Bridges, and also in providing such materials as may be necessary for such reparation and amendment; and all persons keeping any wagon, carts, trucks, sleds, or teams, shall when called upon by such Surveyor for the purposes aforesaid, attend with the same; which work and labour when so performed, shall be deducted from, and allowed as a part of the number of days such person may be obliged by law to work on the Highways; and any person not attending, or refusing to work as aforesaid, shall forfeit the sum of four shillings for each day's neglect, and also the sum of eight shillings per day for refusing or neglecting to furnish such carts, wagons, trucks, sleds, or teams, to be sued for and recovered and applied, as is directed in and by the twenty third section of this Act.

Inhabitants may be summoned to do so.

Work then performed to be allowed for.

XXVII. And be it enacted, That the Commissioners of Highways and Roads for each Town or Parish, or any one of them, be and they are hereby authorized and required, after the first snow, and as soon as the Rivers and Marshes are safe for the passing of cattle on the ice, to order the Surveyors of Highways and Roads, or any of them, for the said Town or Parish, to summon forthwith so many of the inhabitants as the said Commissioners, or any of them, shall in his or their discretion think necessary, to work after such manner as they, the said Surveyors, shall direct, in cutting or carrying bushes, or making ways; and such person not attending, or refusing to perform the said work, as directed by the said Surveyors, shall forfeit the sum of four shillings for each day's neglect, to be sued for, recovered and applied as is directed in the twenty third section of this Act; and the Rivers, and the several parts of the same, when frozen over as aforesaid, shall be considered as a part of the Towns or Parishes to which they are respectively opposite, for the purposes directed by this clause; and the Commissioners for the Towns or Parishes opposite to each other, upon any River, are hereby authorized and required to agree upon and determine the distance upon the said River which is to be worked upon by their respective Towns, in pursuance of this Act.

After ice made and snow, parties may be summoned to work in getting bushes, &c.

Rivers when frozen to be considered part of the Parish.

XXVIII. And be it enacted, That every person keeping a team shall be obliged forthwith, on being summoned by the said Surveyor or Surveyors, to send his horse, horses, or team, with a competent driver, to work in such manner as the said Surveyor or Surveyors shall direct; and on any such person neglecting to send his team and a good driver, or not performing such reasonable work as the said Surveyor or Surveyors shall direct, the owner of the said team shall forfeit the sum of eight shillings, to be sued for, recovered and applied as is directed in the twenty third section of this Act.

Teams to be forthcoming with drivers on requisition.

XXIX. And be it enacted, That the said way shall be marked in such place as the said Commissioner or Commissioners shall direct, with ever-green bushes, erected at the distance of not more than four rods (lengthways of the said path) from each other, and five feet in height; and on any of the said marks being displaced, the Surveyors shall summon forthwith as many of the nearest inhabitants, with their teams, as they may judge necessary to replace them; and in case of refusal or neglect, every person so offending shall forfeit the sum of four shillings for each man, and four shillings for each team, for each day so summoned; provided, when the Public Roads are on the bank of the River, the said path shall be marked

Winter Roads to be marked with bushes.

Penalty.

on

on the River; the said fines and forfeitures to be recovered by complaint to a Justice of the Peace, in the same manner as in case of refusal to labour on the Highways, and to be appropriated by the Commissioners towards performing the said service; provided always, that the number of hours which any person shall work in pursuance of the directions of this section, or the sum he shall forfeit shall be deducted from and allowed as a part of the number of hours he is obliged by law to work upon the Highways.

Penalty for wilfully cutting down the erected bushes.

XXX. And be it enacted, That if any person shall wilfully cut or take down or destroy any of the bushes so to be erected by virtue of this Act, he shall forfeit and pay the sum of twenty shillings upon conviction before any one of Her Majesty's Justices of the Peace, upon the oath of one or more credible witness or witnesses, to be levied by Warrant of distress and sale of the offender's goods, rendering the overplus (if any) after deducting the costs and charges, to the offender; one half of the said forfeiture to be applied to the use of the Poor of the Town or Parish where such offence shall be committed, the other moiety to him or them who shall inform and sue for the same; and for want of such effects to levy on, the offender or offenders shall be imprisoned for a term not exceeding six days.

Inhabitants may be summoned to shovel and break Winter Roads.

XXXI. And be it enacted, That the said Surveyors of Highways in their respective Districts, under the direction of the Commissioners, or any of them, shall have full power and authority, and they are hereby required during the winter season, when necessary, to summon such and so many of the inhabitants liable to perform Statute labour, as they in their discretion may think fit, to attend upon the Highways with their shovels, for the purpose of shovelling snow, and assisting to break Roads; and also such and so many of the inhabitants having a horse, horses, oxen or teams, in their respective Districts, as they may consider necessary, to attend and work at the time and place appointed on the Highways or Public Winter Roads, by breaking Roads in the snow, with their said horse, horses, oxen or teams, whenever the depth of snow shall render the same necessary, not exceeding four days in each winter, and at no greater distance than three miles from their own houses; and such inhabitants shall perform the same work over and above the work which such inhabitants are liable to perform upon the Highways, Roads and Bridges, in and by this Act; and every person not attending, or refusing to work when so called upon, shall forfeit and pay the sum of two shillings and six pence for each day's neglect, and also the sum of five shillings per day for refusing or neglecting to appear and work with his horse, horses, oxen or teams, as herein required, to be recovered in the manner prescribed by the twenty third section of this Act, and to be applied by the Commissioners towards breaking the Winter Roads.

Such work to be in addition to other Statute Labour.

XXXII. And be it enacted, That no horse sled or sleigh, shall be drawn on the Highways or Public Roads, unless the same shall be furnished with one or more bell or bells for each horse drawing such sled or sleigh, to be fastened to such sled or sleigh, or to the harness thereof, so as distinctly to be heard, under the penalty of five shillings for every offence, to be recovered from the owner or driver thereof by any person who shall sue for the same, upon conviction before any one of Her Majesty's Justices of the Peace, by the oath of one or more credible witness or witnesses, or on the view of such Justice, and levied by Warrant of distress and sale of the offender's goods and chattels, by Warrant under the hand of such Justice, rendering the overplus (if any) after deducting the costs and charges of such distress and sale, to the offender; which fines shall be paid and appropriated in like manner as is mentioned in the twenty third section of this Act.

Audible bells to be attached to horse sleds or sleighs.

XXXIII. And be it enacted, That the respective Commissioners of Highways, shall on or before the fifteenth day of December in each and every year, deliver in to the Clerk of the Peace of their respective Counties, returns of the Statute Labour performed in their respective Parishes or Districts, to be by him filed; which return shall set forth that all the persons liable to work within the Parish or District of the Commissioner or Commissioners making such return, have either worked, paid their commutation or fines, or been prosecuted for the same as the law directs, with the exception of those persons whom the said Commissioner or Commissioners have deemed it right to excuse; and also a correct account of all the fines and moneys received, and of the manner in which they have been expended, with the vouchers in support thereof, and a statement of the balance (if any) on hand; also a list of the persons from whom the commutation or fines have not been recovered, and the names of all such persons as the Commissioners making such return have excused, and the cause thereof; which return shall be (as near as may be) agreeable to the form hereafter set forth; and if any balance shall remain in the hands of such Commissioner or Commissioners, the same shall be paid into the hands of the County Treasurer, to be disposed of by the order of the Justices, or the major part of them, in their General Sessions, for the making, repairing and amending the Roads, Highways, Public Streets and Bridges in the Parish where such money was collected or forfeited.

Commissioners to make returns of labour performed, &c., to the Clerks of the Peace by the 15th of December in each year.

*Form of Return.*

The undersigned Commissioners (or Commissioner) of the Parish of \_\_\_\_\_, (or District of the Parish of \_\_\_\_\_, as the case may be,) do hereby certify that all the persons liable to work within the said Parish (or District) have either worked, paid the commutation or fines, or been prosecuted for the same as the law directs, with the exception of the person or persons excused.

Forms of Returns.

[Then follows an account of the receipts and expenditures, showing the balance of money (if any) on hand, thus:—]

Statement of moneys expended, }  
Statement of moneys received; } *Specifying the items.*

Names of persons prosecuted.

From whom fines not received.

List of persons excused.

Causes of such excuse.

A. B.

XXXIV. And be it enacted, That the Commissioners appointed by virtue of this Act shall not be required to do any work on the Highways, and when any Surveyor or Surveyors shall be required to superintend the work on the Highways, more than eight days, the Commissioners shall, and they are hereby authorized and empowered to pay him or them at the rate of five shillings per day, out of the moneys voluntarily paid into their hands by way of commutation or collected for fines by virtue of this Act.

Commissioners exempted from work, and Surveyors to be paid after a time.

XXXV. And be it enacted, That no prosecution or suit for the recovery of any of the penalties mentioned in this Act shall be brought or instituted after the expiration of six months from the time of committing the offence intended to be prosecuted; provided nevertheless, that nothing in this Act shall be construed to extend to prevent those entrusted with public money by virtue of any of the hereinbefore recited, or any other Acts, from being held accountable for all moneys so received by them.

Penalties to be prosecuted within six months.

XXXVI.



Persons over-rated may appeal to the General Sessions.

XXXVI. Provided always, and be it enacted, That any person thinking that he has been over-rated, or assessed too high, by the said Commissioners, may appeal to the Justices of the Peace at their next General Sessions after the said work and labour required by this Act has been performed; and the said Justices are hereby authorized and required to examine into the appeal, and if the said appellant shall make it appear, to their satisfaction, that he has been assessed too high, the said Justices shall and may give relief, by allowing the said appellant the number of days in which he may appear to have been over-assessed, out of his proportion of Statute Labour on the Highways the next year.

No appeal allowed unless a memorandum and affidavit shall have been left, with the Clerk of the Peace, or Commissioners.

XXXVII. Provided also, and be it enacted, That no such appeal shall be heard unless the person deeming himself aggrieved, do within one calendar month after receiving notice of the said assessment, or being summoned to perform labour, leave a written memorandum in the Office of the Clerk of the Peace for the County, or with the Commissioners of Highways of the Parish, who are required to transmit the same to the Clerk's Office; to which memorandum shall be annexed an affidavit in the form following, or to that effect:—

County of ss.

I, A. B., of the Parish of , in the said County, do make oath that the whole of the property, real and personal, owned by me, or held by any other person in trust for me, or for my use, does not exceed , and that my whole yearly income does not exceed . Sworn at the day of 18 , before me,

C. D., Justice Peace.

CAP. V.

An Act to establish the Polling Places in the County of Gloucester.

Passed 11th April 1850.

WHEREAS the Polling places in the County of Gloucester, as established by the Laws now in force, are not deemed convenient for the inhabitants; for remedy whereof,

Polling places established in

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act the following shall be deemed the Polling places within the said County at all future Elections, for Members to serve in the General Assembly, for the said County, that is to say:—

Beresford;

For the Parish of Beresford; at or near John Chalmers', at Belledune, and at or near the Church of Petit Rocher:

Bathurst;

For the Parish of Bathurst; at the Court House in Bathurst:

New Bandon;

For the Parish of New Bandon; at or near the Church at Grand Aunce, and at or near Gavin Kerr's:

Carraquet;

For the Parish of Carraquet; at or near the Church at Shippegan, at or near John Gionet's at Carraquet, at or near the Church at Carraquet, and at or near Joseph Terrio's, South Ferry:

Saumarez.

For the Parish of Saumarez; at or near the Church at Tracaday, at or near the Church at Pokemouche, and at or near Thomas Rivers':

any law, usage or custom to the contrary notwithstanding.