

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1789. Saint John, NB: J. Ryan, 1789.

29 George III – Chapter 4

An Act to authorise the erection of Fences and Gates across certain roads in the several counties in this province where the same shall be found necessary.

Be it enacted by the Lieutenant Governor Council and Assembly, That from and after the passing of this act, when any inhabitant of, or proprietor of lands in any town or in this province, shall think it necessary or expedient that any temporary swinging gate or gates should be erected across any road laid out, or hereafter to be laid out in such town or parish, or that water fences should be erected on the shores of the rivers there; it shall and may be lawful for such inhabitant or proprietor to prefer a petition in writing to any three Justices of the Peace in such county, setting forth particularly the object and grounds of such application for either of the purposes aforesaid: which petition being presented the said justices shall and may, and they are hereby authorized and required forthwith to appoint five good substantial disinterested freeholders and inhabitants of and in the said county not resident in the town or parish in which any such gates or fences as aforesaid, are prayed for, to be commissioners to examine and report upon such petition—And a copy of the order for such appointment, shall be annexed to the said petition, and given to such person so petitioning and the said commissioners shall be sworn to the faithful discharge of their trust before one or more of the said Justices, and a certificate of their being so sworn shall be indorsed upon the said copy of the order for such appointment. And the said Commissioners shall, as soon thereafter as may be, proceed to view the premises where any such gates or fences are prayed for, and thereupon to report in writing whether any, either, and which of the gates or fences prayed for, are proper or expedient to be erected, or made; and in such report shall be specified the particular gates or fences so to be made; and upon such report, made and signed by the said five Commissioners or any three of them, being returned, together with the said petition, and filed in the office of the Clerk of the Sessions, if the Justices of the General Sessions, in the county, or the major part of them, assembled in their General Sessions, shall approve of such report or any part thereof, then it shall and may be lawful for the said party, so petitioning forthwith, at his own expense, to erect such gates and fences as shall be so approved of by the said Justices in their General Sessions as aforesaid, Provided always that the expences attending such appointment view and report of such Commissioners shall be born and paid by the said party praying, the same.

II. And be it further enacted, That if any person or persons shall block up and fasten, or stake open, or take down, or destroy any gate or gates so to be erected by virtue or in pursuance of this act, such offender or offenders shall upon conviction before any of his Majesty's Justices of the Peace for the county where such offence shall be committed, upon the oath of one or more creditable witness or witnesses, forfeit and pay the sum of ten shillings for each and every offence, to be levied by warrant of

distress and sale of the offenders goods, under the hand and seal of such Justice, rendering the overplus if any, after deducing the costs and charges of the distress and sale to the offender; which penalty and forfeiture shall be to the use of the poor, and be paid into the hands of the overseers of the poor of the town or parish where such offence shall be committed and such offender or offenders shall be further liable to an action of trespass for any damages sustained thereby: Provided always, that if any gate or gates, erected by virtue or in pursuance of this act, shall not be kept in good order and sufficient repair by the proprietor or proprietors thereof at his or their own expence, that he or they shall not have any benefit or advantage from this act.

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