

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1797. Fredericton: Christopher Sower, Printer to the King's Most Excellent Majesty, 1797.

37 George III – Chapter 3

An Act to authorize the Erection of Fences and Gates across certain Roads in the several Counties in this Province where the same shall be found necessary. Passed the 18th February, 1797.

I. Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the first day of March next, when any inhabitant of, or proprietor of lands in any town or parish 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 the 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 there 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 expence, to erect such Gates and Fences as shall be so approved of by the laid Justices in their General Sessions as aforesaid. Provided always, that the expences attending such appointment, view and report of such Commissioners shall be borne 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 credible 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 deducting the costs and charges of 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 were 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.

III. Provided always, That whenever it shall appear to the Justices of any county, in their General Sessions, by report of Commissioners, to be in such case appointed as herein before directed on the petition for erecting any Gate or Fence by virtue of this act, that the object or ground for erecting any such Gate or Fence within the said county no longer exists, the said Justices, in their General Sessions, may, and they are hereby empowered to order such Gate or Fence to be removed and discontinued, and the proprietor or proprietors of such Gate or Fence, shall not, after such order, have any further benefit or advantage from this act, and the continuance of such Gate shall thereafter be considered and adjudged as a nuisance upon the high way.

IV. And be it further enacted, That this act shall continue and be in force till the first day of March which will in the year of our Lord one thousand eight hundred and two, and no longer.