

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1835.* Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1835.

5 William IV – Chapter 2 (Session 1)

**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. Passed 17th March 1835.**

I. Be it enacted by the Lieutenant Governor, Council, and Assembly, That an Act made and passed in the first year of The Reign of His Majesty King William the Fourth, intituled, An Act to repeal the Acts 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 sure effectual provision for the same; also an Act made and passed in the second year of the same Reign, intituled An Act to amend an Act, intituled An Act to repeal all the Laws now in force for regulating and repairing the 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 intituled An Act to amend the Law relative to Statute Labour, so far as the same relates to the Parish of Fredericton, in The County of York also an Act passed in the third year of the same Reign, intituled An Act to continue and amend the Acts relating to Statute Labour on Roads so far as the said several Acts are now in force, be and the same are hereby repealed.

II. And be it enacted, That the Commissioners and Surveyor already appointed by virtue of any Act now in force for laying out Highways, Roads and Streets, shall continue in their respective Offices until others shall be appointed and sworn as is hereinafter directed; and that the Justices at their General Sessions, to be held for the several Counties, shall appoint three fit persons to be Commissioners to lay out and regulate Highways, Roads and Streets, in the Town or Parish for which they shall be so appointed; and the said Justices at the same time shall appoint in competent number of fit persons to be Surveyors of The said Highways, Roads, Streets and Bridges in each Town or Parish, who are to oversee and repair in the manner hereinafter directed, under the direction of the Commission ere, the several Highways, public Roods, Streets and Bridges within the respective Towns or Parishes for which they shall be so appointed; which said Commissioners and Surveyors shall be sworn to the faithful discharge of their respective offices for the rear ensuing, before the said Sessions or before any one of the Justices of the Peace for said County; and any person being so nominated and appointed who shall refuse to accept of such office, to which he shall be so nominated and appointed, or shall neglect to be sworn as aforesaid, within fourteen days next after being duly notified of such nomination, or, having accepted, shall neglect his duty, shall forfeit for every refusal or neglect a sum not exceeding Five Pounds, to be recovered with costs of suit before any one of His Majesty's Justices of the Peace, at the suit of one of the acting Commissioners or Surveyors of the Parish in which the delinquent resides; and such Forfeiture, when recovered, shall be applied to the repairing of the Highways in such Parish: Provided always, that in case of the death or removal, or other incapacity of any person so

appointed and sworn, or of the neglect or refusal of any person so appointed to accept of the said office, it shall be lawful for any two Justices of the said County, or for the Justice of any General or Special Sessions of the Peace, to appoint another in his stead; and that such person so appointed shall be liable to the same penalty for refusing to qualify himself within fourteen days after being notified of such appointment, or for neglect or refusal to do the duty after being qualified, as is hereinbefore provided for the persons to be first appointed, and so toties quoties.

III. And be it enacted, That it shall and may be lawful for The said Sessions, and they are hereby authorised and empowered in all cases where they 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 each 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 and Surveyors of each District to enforce and superintend the performance of The Statute Labor of such District only, and not of the adjoining Districts, and to make return thereof as hereinafter required.

IV. And be it enacted, That the Commissioners of the major part of them, in the 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.

V. 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 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.

VI. And be it enacted, That when any such intended alteration shall be so objected to, then may any five or more of the Freeholders of such Town or Parish apply to two of His 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 to examine the said Road; 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 lime 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 passes or extends, the Jury in assessing the damages occasioned by such alteration are authorised and empowered to take into consideration the value of the old Road or any part thereof thus shut up, in diminution of The damaged.

VII. And be it enacted, That if any public Road, hereafter to be laid out by virtue of the fourth 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 sixth 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 Building, 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.

VIII. And be it enacted, That the said Commissioners shall and may in all cases where 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 assessment so made by said Jury; which assessment the said Justices are hereby authorised 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 hear the same, not 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.

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 authorised and required to examine into the matter, and if they should 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.

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, and twelve disinterested Freeholders of the County, to be summoned in manner as directed by the sixth Section of this Act, under oath, shall be of the same opinion, 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 content of the owner or owners thereof, 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.

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.

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 the sum of two shillings and sixpence each for their services respectively for each time they shall be so summoned; 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 hear 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 Justice 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 their Verdict to pay the said Jurors the sum of two shillings and sixpence 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.

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.

XIV. And be it enacted, That the Commissioners of Highways in the respective Towns or Parishes for which they shall be appointed, be and are hereby authorised and empowered, by and with the consent of all the owners of the Land over which any Road may pass, to shut up and atop 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 be 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 second Section of this Act.

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 said 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 Highway 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.

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 Sixteen 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 Emigrants arriving from Great Britain or Ireland who shall have arrived in the Province within the year for which the assessment is made) 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 to each day, hereinafter provided (that is to say); Licensed Parish Schoolmasters actually employed as such, and who do not come within any of the Scales hereinafter mentioned, and Indentured Apprentices, Two Days; and all persons above the age of sixteen years and under twenty-one years, Three Days; Journeymen Mechanics, hired Servant and common Labourers, Forty Days; all persons whose real and personal Estate may be estimated at fifty pounds and does not exceed one hundred pounds, Five Days; all persons whose real and personal Estate exceeds one hundred pounds and does not exceed two hundred pounds. Six Days; exceeding two hundred pounds and not exceeding four hundred pounds, Seven Days; exceeding four hundred pounds and not exceeding seven hundred pounds. Eight Days; exceeding seven hundred pounds and not exceeding one thousand pounds, Nine Days; exceeding one thousand pounds and not exceeding fifteen hundred pounds, Ten Days; exceeding fifteen hundred pounds and not exceeding two Thousand pounds, Eleven Days; exceeding two thousand pounds and not exceeding two thousand five hundred pounds, Twelve Days; exceeding two thousand five hundred pounds and not exceeding three thousand pounds, Fourteen Days; exceeding three thousand pounds and not exceeding four thousand pounds, Sixteen Days; exceeding four thousand pounds and not exceeding six thousand pounds, Eighteen Days; and all exceeding six thousand pounds, Twenty Days; and all other persons whose yearly income amounts to one hundred and fifty pounds and does not exceed three hundred pounds, shall work Eight Days; exceeding three hundred pounds and not exceeding five hundred pounds, Twelve Days; exceeding five hundred pounds and not exceeding seven hundred pounds, Sixteen Days; and all other persons whose yearly income shall exceed seven hundred pounds, Twenty Days; and all other Male Inhabitants, who do not come within any of the foregoing description of Persons, shall work Four Days: Provided always, that the said Commissioner or The major part of them, or in cases where the Parish is divided into Districts, the district Commissioner, shall and may and they are hereby authorised and empowered, at their or his discretion, to excuse or lessen the number of days work to be performed by any infirm or indigent person within such Parish or District, certifying however in their respective returns the name or names of such person or persons so excused and the cause thereof: Provided also, that no person shall be assessed both for property and income; and that it shall be in the discretion of the Commissioners to assess the Inhabitants of their respective Parishes, liable to be assessed in these respects, either for property or for income, as to such Commissioners shall seem meet.

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 at 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 affix 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 two shillings and sixpence for each day's labour required to be done by him, provided the same he paid within the period hereinafter limited for such payment by the twenty-second Section of this Act; and the monies 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 Inhabitants of their respective Districts, by publishing notice in writing of the time and place at which the Inhabitants of each District are to assemble to commence their Situate Labour, in one of the most public places in each District; which notice shall contain the names of the persons of 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, Hoods, 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 Waggons, Cars, Trucks, Ploughs, or Harrows, more necessary than the labour of men, in that case such Surveyor may call on any person or persons within his District keeping any Waggon, Cart, Truck, Plough, or Harrow, with two good Oxen or two Horses; which Waggon, Cart, Truck, Plough, or Harrow, with two good Oxen or two Horses, with a competent driver, shall be equal to Three Days' labour.

XXI. 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 High-ways: 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 and pay a sum not exceeding five pounds to be sued for and recovered by anyone 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 in to the hands of the Commissioners to be by them applied in making and repairing the Roads within the said Parish.

XXII. And be it enacted, That if any person or persons when so notified to labour as aforesaid 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 two shillings and sixpence for each days' 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 Commissioner, who shall without delay make complaint in their own names to a Justice of the Peace against every such delinquent; which Justice shall, on conviction, adjudge every such delinquent to pay the sum of four 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 in 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 four 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.

XXIII. And be it enacted, That in case any person keeping any Waggon, 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 Waggon, 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 twelve shillings for everyday he shall so have neglected or refused to furnish such



waggon, 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: Provided always, That if any person who may be notified to do his labour on the Highways, shall produce a Certificate within Six Days after being so notified, from any Commissioner appointed by virtue of this Act, that he has, in the current year, done his tour of labour in any other Parish of this Province, he shall be excused from doing such labour that year; and if the person so notified shall neglect to produce such Certificate within the time so specified, he shall not be allowed to derive any benefit or exemption therefrom; and that no Justice of the Peace shall receive any such Certificate in evidence upon any Prosecution to be brought under the provisions of this Act, as a defence to such Prosecutions, unless it shall be made to appear to the satisfaction of the said Justice that such Certificate was produced to, or left at the Dwelling House of such Surveyor, within the time above specified.

XXIV. 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 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 waggon, carts, trucks, sleds or teams, shall, when railed 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, waggons, trucks, sleds, or teams, to be used for, and recovered, and applied as is directed in and by the twenty second Section of this Act.

XXV. 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 Hushes, or marking 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-second 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.

XXVI. 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-second Section of this Act.

XXVII. And be it enacted, That the said way shall be marked in such place as the said Commissioner or Commissioners shall direct, with evergreen 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 hank of the River, the said path shall be marked 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 Commissioner, 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.

XXVIII. And be it enacted, That if any person shall wilfully cut or take down or destroy any of the Bushes to be erected by virtue of this Act, he shall forfeit and pay the sum of twenty shillings upon conviction before any one of His 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, tendering 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.

XXIX. And be it enacted, That the said Surveyors of the Highways respectively by the direction of the Commissioners or any of them shall have full power and authority, and they are hereby required, during the winter season to summon such and so many of the Inhabitants having a Horse, Horses, Oxen or Teams in their respective Districts, as they, in their discretion shall think fit, to 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 who shall refuse or neglect to work when so called upon, shall forfeit and pay for each and every day he shall so refuse or neglect to appear and work with his Horse, Horses or Oxen, as in herein required, the sum of eight shillings, to be recovered in the same manner as is prescribed by the twenty-second Section of this Act, and to be applied by the Commissioners towards breaking the winter Roads.

XXX. And be it enacted, That no Horse-sled or Sleigh shall be drawn on the Highways or public Roads of this Province, 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 His 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 this twenty-second Section of this Act.

XXXI. 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 into the Clerk of the Peace of their respective Counties returns of the Statute Labour performed in their respective Parishes or Districts to be 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 these persons whom the said Commissioner or Commissioners have deemed it right to excuse; and also a correct account of all the fines and monies 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.

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.

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

Statement of monies expended—Statement of monies received—specifying the items.

Names of Persons prosecuted, from whom fines not received.

List of Persons excused.— Causes of such excuse.

A. B.

XXXII. 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 authorised and empowered to pay him or them at the rate of five shillings per day out of the monies voluntarily paid into their hands by way of commutation or collected for fines, by virtue of this Act.

XXXIII. 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 these intrusted with public money by virtue of any of the hereinbefore recited or any other Acts from being held accountable for all monies so received by them.

XXXIV. 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 authorised 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.

XXXV. 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 \_\_\_\_\_, 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 \_\_\_\_\_ before me.

C. D., Justice Peace.

XXXVI. Provided always, And be it enacted, That nothing in this Act contained shall extend or be construed to extend to the City of Saint John; and also, that in the Parish of Fredericton in the County of York no person liable to perform Statute Labour under this Act shall be suffered or permitted to work by substitute, but that every Inhabitant of the said Parish shall work in person or pay the sum of money by this Act provided to be paid in lieu thereof, any thing hereinbefore in this Act contained to the contrary notwithstanding.

XXXVII. And be it enacted, That this Act shall continue and be in force until the first day of April which will be in the year of our Lord one thousand eight-hundred and forty.