

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1837. Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1837.

7 William IV – Chapter 6 (Session 1)

An Act relating to the Great Roads of Communication through this Province. Passed 1st March 1837.

Whereas it is expedient that the several Acts now in force relating to the great roads of communication in the Province should be repealed, and a more effectual system established for the regulation and improvement of the said roads;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That an Act made and passed in the third year of the reign of His late Majesty King George the Fourth intituled "An Act to repeal all the laws, now in force relating to the establishment, regulation and improvement of the great roads of communication through the Province, and to make more effectual provisions for the same;" also an Act made and passed in the sixth year of the same reign, intituled "An Act to alter and amend the laws now in force for the establishment, regulation and improvement of the great roads of communication through the Province;" also an Act made and passed in the eighth year of the same reign, intituled "An Act to alter and amend the laws now in force relating to the establishment, regulation and improvement of the great roads throughout the Province, and to make more effectual provision for the same;" also an Act made and passed in the second year of the reign of His present Majesty, intituled "An Act to amend an Act, intituled An Act to repeal all the laws now in force relating to the establishment, regulation and improvement of the great roads of communication through the Province, and to make more effectual provision for the same;" also another Act made and passed in the same year, intituled "An Act to alter the great roads of communication from Fredericton to Saint Andrews;" also another Act pass during the same year, intituled "An Act to alter and amend the laws now in force for the establishment, regulation and improvement of the great roads of communication through the Province;" also same year, intituled "An Act further to amend the Acts relating to the great roads of communication through the Province;" also an Act made and passed in the third year of the reign of His present Majesty, intituled "An Act for the further amendment of the Acts relative to the great roads of communication;" also an Act made and passed in the sixth year of the reign of His present Majesty, intituled "An Act to establish the road leading from Houlton to Woodstock one of the great roads of communication in this Province;" and also another Act made and passed in the same year of the same reign, intituled "An Act to establish the road leading from Connicks at Waweig in the County of Charlotte, to the lower bridge over the River Saint Croix, as one of the great roads of communication," be and the several Acts are hereby repealed, except so far as any of the said Acts may repeal the whole or any part of any other Acts.

II. And be it enacted, That the roads herein described be and they are hereby continued, appointed and established to be the great roads of communication through the Province, that is to say, that the road leading from Fredericton to Saint John by way of the Nerepis, be by the following line or route, that is to say, from the Market House in Fredericton by the present route

to the mouth of the Oromocto River, thence across the said river and through the field of John Hazen, Esquire, to the great road in rear of the said field, thence to Vaughns point, thence across the inlet at the head of South Bay to the point where the great road divides into two branches, one of which leads to John Hardings on the Manawagonis [Manawagonish] road, and from thence by the present route to Carleton ferry, and the other to Lovetts point opposite to Indian Town. That the road leading from Gagetown to the Nerepis road, be by the following line or route, that is to say, from the Court House in Gagetown along the present highway, leading towards Dingees mill, until it meets the road leading from Gagetown to the Nerepis great road, thence through the Summer Hill and Coote Hill settlements until it meets the aforesaid Nerepis road, leading from Fredericton to Saint John.

That the great road leading from Saint John to Sant Andrews, be by the following line or route, that is to say, from Carleton to Musquash, thence to Magaguadavic, thence to Digdeguash, thence to Chamcook, and thence to Saint Andrews.

That the great road from Fredericton to Saint Andrews, be by the following line or route, that is to say, from the Market House in Fredericton by the residence of the Honorable Thomas Baillie, through the Hanwell settlement, thence to the River Magaguadavic, near Brockways, thence by the Flume Ridge to MFarlanes Mills, on the River Digdeguash, thence to Connicks thence to Gilmans, and thence to Saint Andrews.

That the great road from Connicks, at Waweig in the County of Charlotte, to the lower bridge over the River Saint Croix, be by the following line or route, that is to say, from Connicks at Waweig round the head of Oak Point Bay, and thence through the town of Saint Stephens to the lower bridge over the river Saint Croix.

That the great road from the City of Saint John to the Nova Scotia line, be by the following line or route, that is to say, from the City of Saint John to the bridge over Hammond River near Ketchums, thence by the present route to Hampton Ferry, thence to Sussex and through that Parish to Alexander MLeods, thence by the new road round the Portage Hill, to where it joins the old road near Leakes farm, thence to the new bridge over the Petticodiac [Petitcodiac] River, thence along the said river to the bend, thence the Portage between Petticodiac [Petitcodiac] and Memramcook Rivers, thence across Memramcook River by the bridge, to the Court House in Dorchester, thence through the Portage to Sackville, thence by the road leading over the great Marsh to the Missiguash, the boundary line of the Province, to join the Post road of Nova Scotia. That the great road leading from the Bend of the Petticodiac [Petitcodiac] River in the County of Westmorland to Shediac, be by the following line or route, that is to say, from the Bend of the Petticodiac [Petitcodiac] River by the present road to Shediac.

The great road from Dorchester to Chatham to commence at the angle of the line of the great road from Saint John to the Nova Scotia line, on the East side of the Memramcook River bridge, thence by the present line of road to the ferry over the river Richibucto near George Platts, thence following the present line of road by the head of Daigles creek to Napan, and from thence to the Village of Chatham, through the Chatham Joint Stock Companys lot.

That the road from Hopewell in the County of Westmorland to Salisbury, be by the following line or route, that is to say, commencing at Isaac Dorrys, and extending thence by the present road to John Calhounes, thence to MLatcheys creek in Hillsborough, thence by the road as now travelled to George Colepitts in Coverdale, and thence to the great road near Alexander Wrights.

That the road from Fredericton to the Finger Board be by the following line or route, that is to say, from the Market house in Fredericton, across the river Saint John to the lower side of the Nashwaak, thence to the Parish of Mougerville, thence following the present road through that Parish, and the Parishes of Sheffield and Canning, to William Colwells farm, thence across the Jemseg and following the new line of road lately explored by Wfiliam Fosbay and John Earle, crossing the Washademoak Lake at Whites Point, to the old road, thence by the present route to the Finger Board, on the great road from Saint John to the Nova Scotia line.

That the road from Saint John to the head of Bellisle [Belleisle], be by the following line or route, that is to say, from the forks of the road on the Great Marsh near Saint John, through the Moose Path road by Charles Clarks and the Honorable William Blacks farm, thence by the same road to Gondolo [Gondola] Point, thence crossing the river Kennebecasis [Kennebecasis] to George Burgess farm, thence following the road to the eastward of Bates mill pond, and through the Middle Land settlement by way of Lewis Picketts to the Guthrie road so called, thence by the road last mentioned to the head of Bellisle Bay, meeting there the great road leading from Fredericton to the Finger Board.

That the great road leading from Fredericton to Newcastle and thence to Restigouche, be by the following line or route, that is to say, crossing the river Saint John at Fredericton to the upper ferry, commonly called Everitts ferry, thence north easterly or thereabouts, through the woods, to Athertons on the west side of the Nashwaak, agreeably to the line, as near as may be, explored and recommended by Alexander Goodfellow, David Crocker and Robert Wasson, the Commissioners appointed by His Excellency the Lieutenant Governor, to examine the road from Swims ferry on the south west Miramichi to Fredericton, in pursuance of a resolution of the House of Assembly in the Session of one thousand eight hundred and thirty five, thence up the Nashwaak, following the course recommended by the said Commissioners, as near as may be, to M'Phersons, thence crossing the Nashwaak at M'Laggans-mill, about two miles below M'Leods, thence across the Portage to Boies Town, also agreeably to the line recommended by the said Commissioners in their report, and laid out, opened, and made by the Supervisors on that road, viz: Goodfellow and Crocker, the last year, thence from Boies Town [Boiestown], on the south side of the south-west branch of the river Miramichi down to Hunters or Bliss farm, thence crossing the said branch of the river Miramichi to the north side, thence down on the last mentioned side till it strikes the new road at or below Swims ferry, thence to continue down on the same side of the said river, following the new road to the lower end of the straight line below Decantlins, thence to Doak and M'Laggans mills on Bartholomews river, thence to Indian Town, thence following the road as at present made and travelled to the north west branch of the Miramichi river, to a little above or to the north of Beaubairs [Beaubears] Point, thence crossing the said north west branch to Newcastle, thence to Alexander Goodfellows farm, thence through the woods agreeably to the

road at present travelled to Foreins to the Shire Town at Bathurst, and from the public landing near Joseph Reads wharf, and continue in a direct line to Deacons landing, from thence to Tattigouche [Tetagouche] bridge, and from thence to Armstrongs bridge, thence to cross at the mouth of the Jaquet river, and to continue to Benjamins bridge, and pass near to M'Phersons house, thence to river Charlo, at or near the head of the tide, thence to cross at the mouth of Eel river, thence on the present laid out line to Dalhousie, and from thence on to Campbellton, to terminate immediately opposite the entrance of the Kempt Canada road.

That the road leading from Fredericton to the Canada line, be by the following line or route, that is to say, from the Market House in Fredericton on the west side of the river Saint John to Burgoynes ferry, thence across the river Saint John on the east side of the said river to Penningtons bridge on the great road leading to Joseph Woolvertons in the Parish of Northampton, thence across the said river Saint John to Mr. Frasers lower farm in Woodstock, thence to the Garrison at Presqu [Presque] Isle, thence across the lower Presqu Isle Creek, near the mouth of the river Restook [Aroostook], thence across the said river near its mouth, thence to the Grand Falls, and from thence to the Canada line through the Madawaska settlement.

That the great road leading from Woodstock to Houlton, be by the following line or route, that is to say, from the great road leading to the Canada, line, at Woodstock corner, thence through the Richmond settlement to the American line, to meet the Bangor road through Houlton.

III. And be it enacted, That all the before mentioned great roads shall be four rods wide and shall be opened and worked of such width as the Supervisors in their respective districts shall deem necessary, not exceeding the width aforesaid.

IV. And be it enacted, That the Lieutenant Governor or Commander in Chief of the Province for the time being, by and with the advice of His Majesty's Executive Council, is hereby authorized and empowered to appoint fit and proper persons to be Supervisors of the said great roads respectively, or such parts or portions thereof, as the said Lieutenant Governor or Commander in Chief by and with the advice aforesaid may deem proper; provided that no Supervisor shall have more than one hundred and fifty miles of roads under his superintendence.

V. And be it enacted, That every Supervisor appointed under and by virtue of this Act, shall give security, by bond to His Majesty, His Heirs and Successors, with two good and sufficient sureties to be approved of by His Excellency the Lieutenant Governor or Commander in Chief for the time being, by and with the advice of His Majesty's Council, in double the amount such Supervisor may have to expend, conditioned for the faithful performance of the duties required of him, and for the accounting for all public monies intrusted to him, such security to be taken in double the amount granted for the road under his superintendence.

VI. And be it enacted, That the respective Supervisors appointed under and by virtue of this Act, except in cases hereinafter mentioned, shall have the sole ordering of the repairs and alterations which may be necessary for the completing the said roads within their respective limits or districts, and keeping them at all times, during their continuance in office, in the best possible state of

repair; and for the purpose of making any alteration they may deem necessary, such Supervisors respectively shall have power and authority and they are hereby authorized to enter upon the lands of any proprietor or proprietors through which it may be thought desirable to make any alteration, in order to make the necessary exploration and survey, preparatory to such alteration, doing no unnecessary damage thereto: Provided always, that nothing in this Act contained shall extend or be construed to extend to deprive the several respective Parishes of the power of direction of the inhabitants of the said Parishes either within the same, as to the said Commissioners may appear most conducive to the public good: Provided always, that the said Commissioners shall in no case have the power of altering any great road or roads, but are hereby respectively required, in all cases where they may deem it necessary to expend the statute labour or any part thereof on any of the great roads of this Province, to adhere to the lines already laid out and established by law, or that may be laid out in pursuance of any law now in force or that may hereafter be in force for that purpose.

VII. And be it enacted, that each and every Supervisor so to be appointed, shall in the spring of the year, when the ground is free from snow and ice, carefully examine the whole of the road under his superintendence, and shall lay off and mark out such allotments as may conveniently be contracted for, in order that the making or repairing of the same may be let by auction to the lowest bidder; and in all such cases such Supervisors respectively are hereby required to put up a sufficient number of notices, not less than ten days previous to such sale, in three or more of the most public places in the neighbourhood where the work is to be done; which notices shall specify and describe the work so to be performed, and also the place, day and hour when and where the same will be let at auction as aforesaid; and it shall further be the duty of such Supervisors respectively to attend personally at the time and place so appointed, and there to let out the to lowest bidder the several and respective allotments, and at the same time to enter into written contracts with sufficient sureties for the faithful performance of the work, in time and manner set forth in such contracts; and in cases where the work required to be performed cannot conveniently be let by auction, it shall be the duty of the said Supervisors to agree with fit and proper persons to perform the same by days labour, provided that the sum expended by days work shall in no case exceed twenty per cent of the amount to be expended on the said road.

VIII. And be it enacted, that the Supervisors shall cause all turnpiking, ploughing and throwing of the said roads to be performed previous to the first day of October in each and every year, and shall not permit any Contractor or day labourer to perform such work on the roads under his charge after that date.

IX. And be it enacted, That all the contracts and also all the wages of labourers hired by the day aforesaid, shall be paid by the said Supervisors in money, and the said Supervisors shall respectively keep an exact account of the expenditures of all sums of money received and paid by them respectively for the great roads, and shall produce receipts in writing from the several and respective persons to whom any part of the said sums of money shall be paid as vouchers for the payment, and shall render an account thereof under oath (which oath any Justice of the Peace in the several and respective Counties is hereby authorized to administer), to be transmitted to the Secretary of the Province, for the inspection and examination of the General Assembly.

X. And be it enacted, That all fences, timber, wood, stones, boards, plank and rubbish of any kind, which shall be found to remain upon any part of the said great roads, after six days previous public notice by the respective Supervisors to remove the same, shall be forfeited; and it shall and may be lawful for the said Supervisors respectively or any of them, without any suit or process at law whatsoever, to cause all articles so found to be seized and disposed of in such way and manner as he or they may think proper, and if the same shall be sold, the proceeds of such sale shall be applied by the said Supervisor or Supervisors for the repairs and improvement of such roads.

XI. And be it enacted, That in case it shall toy necessary or expedient for the Supervisors in their respective districts to go out of the said roads to procure materials for the repairs of the same, it shall and may be lawful for the said Supervisors respectively, when from the absence or obstinacy of the owner or possessor of the soil no agreement can be made with him, to enter with workmen, carts, carriages and teams upon any uncultivated lands, and therefrom to dig, take and carry away, for the repairs of the said road, stone or gravel, and also to cut down and carry away trees and bushes, for logs, poles and brushwork, to repair the same roads, and the damage done thereby shall be appraised and ascertained by the judgment of three indifferent freeholders, to be nominated by a Justice of the Peace for that purpose; and the sum so ascertained shall be paid or tendered by the Supervisors respectively to the owner or possessor of the soil, if demanded within six months after such appraisalment.

XII. And be it enacted, That the said Supervisors for the respective districts shall not make any alteration in any part of the great roads within their respective districts through any improved lands, without the consent of the owner or owners thereof, or agreeing with or paying to him, her or them the value of the said improved land so to be laid out into such public road, with such damages as he, she or they may sustain by the said road; and in case they cannot agree, then the true value to be set and appraised by five disinterested freeholders to be nominated and appointed by two Justices of the Peace, on the oath of such freeholders, which oath any one of the said Justices is hereby authorized and required to administer, and the amount of such value and damages, with the incidental expenses, shall be defrayed by the Supervisors of the respective districts out of the monies to be granted for the use of the said great roads.

XIII. And be it enacted, That the proprietor or proprietors in the possession, either by themselves or by tenants holding under them, of any lands through which it may be necessary to lay out a public road, shall be deemed to be the owner or owners of such lands, to whom the value thereof and the damages sustained are to be paid under the provisions of the previous section of this Act, notwithstanding that such lands may be under mortgage or other incumbrance; and that the freeholders appointed to set and appraise such value and damages, shall also inquire and return in their verdict who are such owner or owners to whom such value and damages are to be paid, and upon payment of such value and damages to the person or persons whom the said freeholders shall so return in their verdict to be the owner or owners of such lands, or upon tender and refusal thereof, such Supervisor shall be fully authorized to lay out such public road through such lands; and in case any such alteration lies on the border of two adjacent Counties, so as to extend into

both, or to render it doubtful as to which of the two Counties the said alteration may be situate in, the Justices and the said freeholders may belong to either County, and the proceedings had by them shall be as valid and effectual as any proceedings under the provisions of this Act; and if any person or persons who may, by any of the provisions of this Act, be found entitled to receive any sum or sums of money, and on due tender thereof shall not accept of and receive the same, and shall not apply for the same within six calendar months after such tender, then the Supervisor or Supervisors shall pay the same into the Province Treasury to be disposed of under the direction of the Legislature, and that the Treasurer or Deputy Treasurer to whom such payment shall be made, shall be accountable for the same, and shall give such Supervisor a receipt for the sum so paid, which shall be a sufficient discharge to such Supervisor or Supervisors for the same.

XIV. And be it enacted, That if any person or persons do or shall hereafter alter, stop up or encroach upon any of the great roads of communication through this Province in any manner whatever, such person or persons so offending contrary to the meaning of this Act, shall for every such offence forfeit the sum of two pounds, to be recovered with costs of suit before any one 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, and levied by warrant of distress and sale of the offenders goods and chattels, rendering the overplus (if any) to such offender; and for want of sufficient goods and chattels the said Justice is hereby require to commit such offender to the common gaol of the County wherein such offence shall be committed, there to remain for a term not exceeding eight days; which penalty when recovered shall be paid to the Supervisor for the use of the great road within the district.

XV. And be it enacted, That if any person or persons shall wilfully hinder or interrupt any Supervisor in the lawful exercise of the duties incident to his office, such person or persons so offending shall forfeit the sum of five pounds, to be recovered before any Justice of the Peace for the County where such offence may be committed, upon conviction upon the oath of one or more credible witness or witnesses, to be levied by warrant of distress and sale of the offenders goods and chattels, to be paid to the Supervisor of the district where such offence shall be committed for the use of the public roads within such district.

XVI. And be it enacted, That in case any action of trespass, or upon the case, shall be brought against any or either of the said Supervisors by occasion of any thing done by him or them in the execution of his or their duty, under and by virtue of this Act, such Supervisor or Supervisors may plead the general issue, and give the special matter in evidence at the trial, in like manner as if such special matter had been fully and specially pleaded.

XVII. And be it enacted, That no action shall be brought or commence against any Supervisor for any act, matter or thing whatsoever, by any such Supervisor done, performed or committed in or about the execution of his duty, until after one months notice of such action to be brought shall have been given to such Supervisor, and every action against any Supervisor shall be confined to the subject matter stated in such notice; and it shall and may be lawful for any such Supervisor to whom notice of action shall so be given, at any time before action brought, to make and tender amends to the party aggrieved, and if such amends shall not be accepted, then such Supervisor

may pay such money into Court, and if the plaintiff shall not recover great in damages than the amount so tendered and paid in, the said defendant shall recover his costs of suit.

XVIII. And be it enacted, That the several and respective Supervisors shall be appointed for and during the space of one year, from the date of such appointment respectively, and such appoints shall be made during the first week in April in each and every year, and in case of death or removal from the Province, or refusal of any such Supervisor to act, it shall and may be lawful for the Lieutenant Governor or Commander in Chief for the time being, by and with the advice of the Executive Council, to nominate and appoint for the remainder of the year some other fit person to be Supervisor in the room of such person so deceased or removed from the Province, or who shall refuse to act.

XIX. And be it enacted, That the Supervisors of the respective districts for which they may be appointed, shall enter in writing the said great roads of communication and the alterations that may from time to time be made therein, and make a return thereof into the office of the Secretary of the Province, and also duplicate into the office of the Clerk of the Peace for the County in which such public road lies, to be by such Clerk entered in a book kept by him for that purpose; and whatsoever the said Supervisors shall respectively do, according to the power to them given by this Act, shall be valid and good.

XX. And be it enacted, That each of the said Supervisors shall be allowed to retain for his services, at and after the rate of ten per cent, out of the monies granted for the use of the roads.

XXI. And be it enacted, That all Acts and proceedings which may have been done and had, under and by virtue of any of the said Acts hereinbefore repealed, shall be and remain valid and effectual, notwithstanding such repeal.