

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1858. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1858.

21 Victoria – Chapter 30

An Act to alter and amend an Act intituled *An Act relating to Highways*. Passed 6th April 1858.

Section.

1. Act 18 V. c. 45, in part repealed.
2. Authority to lay out highways over unimproved lands.
3. Highways over improved lands, how effected when owners object.
4. Damages to be paid or waived before road be opened.

Section.

6. General Sessions to order assessment for damages.
7. Authority to order snow to be hauled or shovelled.
8. Highways over improved land, when owners consent.
9. Assessment on females and minors may be paid in labour by substitutes.

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. That the fourteenth Section of an Act made and passed in the eighteenth year of the Reign of Her present Majesty, intituled *An Act relating to Highways*, and also so much of the said Act as is inconsistent with this Act, be and the same are hereby repealed.
2. The Commissioners of Highways shall lay out such public highways over unimproved lands as they consider necessary for public accommodation.
3. When application shall be made to such Commissioners in writing by three freeholders to lay out a public highway over improved land, and the owner or owners of such improved land shall not consent thereto, as hereafter mentioned, such Commissioners shall apply to a Justice of the Peace for a Warrant, who is hereby required to grant the same, directed to any Sheriff or Constable within the County, commanding such Sheriff or Constable to summon five disinterested freeholders of the County not resident in the Parish where the proposed road is situate at a certain time to be named in such Warrant, to examine the proposed road so applied for; the said Commissioners or any two of them to be present at the same time; and if the said Jury, who are to be sworn by the Justice issuing such Warrant, find that such road is necessary, the said Commissioners or any two of them, if they approve of such finding, shall lay out the said road, immediately after which the said Jury shall be sworn to assess the damages, and shall proceed to assess the same.
4. No such road shall be opened, or deemed dedicated to the public, until the damages assessed be paid to the owner of the land, unless the said owner or owners thereof shall consent in writing to the opening of the same.

5. The Justice, for issuing such summons and presiding, shall receive ten shillings; each Juror summoned and attending as aforesaid, shall be entitled to five shillings, and the officer summoning them, to ten shillings; the sum necessary to meet such expenses shall be paid by the parties applying for the road to the Commissioners previous to the issuing such Warrant: the Commissioner shall pay the Justice, Officer and the Jury their fees: if the Jury find such road necessary, such expenses and assessment of damages as aforesaid shall be laid by the said Commissioners before the next General Sessions for the County.
6. The General Sessions, when such assessment of damages shall be laid before them, shall during such Session make an order that the amount thereof, together with such expenses, shall be assessed upon the Parish in which such road is situate, and issue their warrant therefor, to be assessed, levied, and collected as County rates, and paid to the parties entitled thereto.
7. The Surveyors of Districts shall, in addition to the power given to them under the thirty first Section of the said Act, to summon the inhabitants to shovel roads and assist to break roads, have power to require such inhabitants, when attending, to haul or shovel snow on such parts of said roads as the Surveyor shall direct, subject to the like penalties for neglect or refusal as are prescribed by the said Section.
8. When the Commissioners shall deem it necessary to lay out any highway over improved lands, and the owner or owners thereof consent in writing that such highway may be laid out and opened, the Commissioners shall proceed to lay out and open such road, and such consent in writing shall be filed by the said Commissioners with the return of such road.
9. That any assessment for Statute Labour on the property of females and minors may be paid for in labour by substitutes.