

Laws of His Majesty's Province of Newfoundland, passed in the year 1834.

4 William IV – Chapter 6 (Session 1)

An Act to Regulate the Making and Repairing of Roads and Highways in this Island. (12th June, 1834.)

Be it Enacted, by the Governor, Council, and Assembly, that it shall and may be lawful for the Grand Juries of the several Circuit or District Courts, or in the Courts of General or Quarter Sessions of the Peace, in the respective Districts of this Island, at such terms or times as the said Courts respectively shall direct, yearly and every year to nominate so many fit and proper Persons as they may consider necessary, as Surveyors of Highways for each District or Settlement; and the said Court shall, from the Persons so nominated, appoint as many as may be deemed expedient, to be Surveyors of Highways for the District or Settlement for which they are so nominated; and the Persons so appointed shall be sworn to the faithful discharge of the duties of that office; and any Person so appointed, having received notice thereof, who shall refuse to accept of the said appointment, or shall neglect to be sworn to the faithful discharge of the duties thereof within Fourteen Days next after such appointment, or having accepted, shall neglect his duty therein, shall forfeit, for such refusal or neglect of his duty, the sum of Two Pounds.

II. And be it further enacted, that every Person within each District or Settlement, keeping any Cart, Team, Truck, Carriage, or Horse, shall send on every day appointed by the Surveyor of Highways, One Cart, Team or Truck, with Two Oxen or Two Horses, or with One Horse in case he owns no more, and one able man to drive the same, four days in every year to work on the Highways, Roads, Streets or Bridges, allowing Eight Hours to each day's work; and such persons not attending, or neglecting to perform the said duty, shall pay and forfeit, for every day's omission or neglect, if owning two or more Horses or Oxen, Ten Shillings; and if owning One Horse only, Seven Shillings; and that every other Householder, or other Person, able of body, between the ages of Sixteen and Sixty, not being a Military Person or holding a Commission from His Majesty in the Military or Civil Department of the Army, or an hired Servant, Minor, Apprentice, Journeyman, or Day Labourer, shall on every day appointed as aforesaid, either by himself or other sufficient Person to be hired by him, and provided with such necessary implements as shall be directed by the said Surveyor, work, and continue so to do, for the space of Six Days in every year, on the said Highways, Roads, Streets, or Bridges, within the District or Settlement where they respectively reside; and every hired Servant, Minor, Apprentice, Journeyman and Day Labourer, shall on every day appointed as aforesaid, either by himself or other sufficient Person, work, and continue so to do, for the space of Two Days, on the said Highways, Roads, Streets or Bridges within the District or Settlement where they respectively reside; and such Householders, hired Servant, Minor, Apprentice, Day Labourer, or other Person not attending or neglecting to perform the said Labour, shall forfeit Three Shillings for every day's neglect.

III. And whereas the labour of men may be more useful than the employing Teams, Carts or Trucks, in some Districts and Settlements: Be it therefore enacted, that when any Surveyors of Highways shall judge the labour of Men more useful and necessary than that of Carts, Teams, or Trucks, the Persons who by this Act are to supply Carts, Teams, or Trucks, shall be and they are hereby required, under the

like penalty, to send two labouring men instead thereof, furnished with necessary implements as aforesaid.

IV. And be it further enacted, that the Constables for the several Districts in this Island shall make out lists of all such Persons who are Owners of Teams, Carts or Trucks, as also of every Householder and other Persons liable to perform labour under this Act, within their respective Districts and the Settlements adjoining, and deliver the same to the Surveyors of Highways; and the said Constables, when required by the said Surveyors, shall summon the said Persons contained in the said lists to meet on such days, and at such places, as the said Surveyors shall direct, to perform the labour required by this Act.

V. And be it further enacted, that the said Surveyors of Highways shall at the most desirable and convenient time or times in each year, cause the persons contained in their lists respectively to be summoned, giving them at least Seven Days' Notice of the time and place where they are to be employed, and shall there Oversee and order the Persons so summoned, to labour in making and repairing the Highways, Roads, Streets and Bridges, in the most useful manner, during the number of days required by this Act, for each Person to labour: And the Surveyors of Highways, shall be excused from any other service on the Highways, than that of overseeing and ordering the persons employed thereon: Provided always, that all persons engaged in the Fishery, shall be exempt from Labour during the period of the Fishery.

VI. And be it further enacted, that upon application to one or more of His Majesty's Justices or Conservators of the Peace, the said Justices or Conservators, shall and may, in their discretion, lessen the number of Days' Labour to be performed by any Poor Person, who cannot, without detriment to his family, perform the Labour required by this Act.

VII. And be it further enacted, that all Persons keeping Carts, Teams, Trucks, or Carriages, who being Sixty Years old or upwards, are exempt from labouring on the said Highways or Roads, shall nevertheless, when summoned so to do, send their Carts, Teams or Trucks for Four Days, to assist in making or repairing the same.

VIII. And be it further enacted, that it shall not be lawful for any Surveyor of Highways, although with the consent of the Owner of the Land, to alter any Highway, Road or Street, or make any repairs to any Highway, Road or Street, in any Town, District or Settlement, without the advice and consent of at least Two Justices of the Peace.

IX. And be it further enacted, that it shall and may be lawful for the Surveyors of the Highways to order and direct the Inhabitants, in their respective Districts, as often as they shall deem necessary, during the Winter, to work on the Public Highways with their Horses, Oxen and Sleds, in order that the Roads may be rendered passable Provided always, nevertheless, that no inhabitant shall be compelled to furnish more than One Day's Labour of himself or cattle for any one fall of snow, or where the fall or drift of snow shall not exceed the depth of Two ve Inches.

X. And be it further enacted, that every Inhabitant refusing or neglecting to obey such Order of the Surveyor of Highways, shall forfeit for each refusal or neglect, respectively, the same Fine or Fines as are prescribed in and by the Second Section of this Act.

XI. And be it further enacted, that every Surveyor of Highways shall yearly, at the expiration of his Office, render to the Court of General Quarter Sessions of the Peace, a true and faithful account, under Oath, of all the Labour expended by him, designating the names of the Persons and the Labour performed by each, and of all the Fines received by him; and shall pay the overplus, if any, in his hands, to his successor, for the use of the Highways, under a penalty not exceeding Ten Pounds for each neglect.

XII. And be it further enacted, that where any new Highway or Common Road, from Town to Town, or Place to Place, in any County or District in this Island, shall be wanting, and where Old Highways or Roads with more conveniency may be altered, upon application being made to the Court of General Sessions of the Peace within the said County or District, the said Court is hereby authorized and required to appoint Three Persons, being Freeholders of the adjoining Townships, having most occasion for the said Highway, to enquire into the necessity and conveniency thereof, and to make their report thereon; and the same being judged to be of common necessity or conveniency, the said Court shall issue a Warrant to the Sheriff or his Deputy, or High Constable, to summon a Jury out of the adjoining Townships, to meet at some convenient day and place therein mentioned, to view and lay out or alter such Highway or Road, who shall have an Oath administered to them by the said Sheriff, or his Deputy, or High Constable, who is hereby authorized to administer the same, to lay out or alter such Highway or Road according to their best skill and judgment with most conveniency to the public and least prejudice or damage to the Owner or Owners of the Lands on which the said Highway is to be laid out or altered, and to asses the damages to the Owner or Owners of such Lands, as the said Jury shall think reasonable for the value of the Land and Improvements made on the same; and also for the making of Fences on the sides of such Highways, which having done, the said Sheriff or his Deputy, or High Constable, shall make a return thereof on the day appointed by the said Court, as well under his own as the hands of the Jurors by whose Oath the same is laid out and altered, to the end the same may be allowed of and recorded and after known for a Public Highway; and all Public Highways hereafter to be laid out as aforesaid shall not be less than Thirty Feet wide.

XIII. Provided always, and be it further enacted, that before such Highway or Road is allowed and recorded for a Public Highway, the Court shall cause notice thereof to be given for the space of Thirty Days, to the intent that if any Person shall think himself aggrieved thereby, he may make his complaint, and enquiry shall be made before the said Court into the cause of such complaint.

XIV. And be it further enacted, that the said damages to be assessed as aforesaid with the expenses incurred, shall be assessed and levied by an assessment upon the Lands, Houses and Tenements within such County or District upon the presentment of the Grand Jury, and by an order of the Justices in General Sessions.

XV. And be it further enacted, that the Surveyors of the Highways of each District or Settlement, shall be and they are hereby authorized to lay out Particular and Private Ways, either open or pent with

swinging Gates, for such District or Settlement only, as shall be thought necessary by the said Court of General Sessions of the Peace, upon an application made to them by the persons concerned and interested therein: Provided, that no damage be done to any person in his Land or otherwise, without such recompense to be made by the District or Settlement in which the said Way may be laid out, as the Surveyors of Highways and the persons interested may agree or shall be ordered by the said Court of General Sessions of the Peace, upon enquiry into the same by a Jury to be summoned for that purpose; and the sum or sums of money so agreed to be paid by the said Surveyors of Highways, or assessed by the Jury as aforesaid, together with the expenses incurred, shall be assessed and levied upon the Inhabitants of the District or Settlement wherein such Way lies, and collected in the way and manner provided in and by the Fourteenth Section of this Act.

XVI. And be it further enacted, that if any Juror duly summoned by the Sheriff or his Deputy, or High Constable, for any purposes required in this Act, shall neglect to attend or refuse to perform the duties required by this Act, every such Juror shall forfeit and pay for every such neglect or refusal, the sum of Twenty Shillings, to be levied by Warrant of Distress and sale of the offender's Goods and Chattels, on conviction of such offence before any Two Magistrates of the County or District wherein the offender shall be resident; and the Sheriff or his Deputy or High Constable shall summon others in the place of those who may neglect to attend or refuse to be sworn, until such Jury shall be completed to the number of Twelve.

XVII. And be it further enacted, that if any Person or Persons shall alter any Public Road or Highway, or any Private Road, the same having been lawfully laid out and established, or shall make any encroachment thereon, not being lawfully authorized so to do; such Person or Persons so offending, shall forfeit and pay the sum of Five Pounds, over and above the expense of abating such nuisance.

XVIII. And be it further enacted, that any one of His Majesty's Justices of the Peace shall and may, on his own view, or upon the Oath of one credible Witness, impose a fine not exceeding Twenty Shillings on any Person who shall encumber any of the Highways, Roads, Streets or Bridges in this Island, by laying Timber, Wood, Carts, Trucks, Rubbish, or any other thing, thereon, to be recovered by Warrant of Distress and Sale of the Offender's Goods and Chattels; or in case such offender shall not be known or found, the same shall be recovered by sale of so much of the Timber or Wood, and the Carts, Trucks, Rubbish, or other Thing encumbering such Road or Street as aforesaid, and be paid to the Surveyors of Highways, to be applied towards the maintenance and repair of Roads and Bridges, rendering the overplus, if any be, to the Owner when discovered; and if the nuisance shall continue, the same shall be deemed a new offence, and shall be prosecuted and liable to the penalty aforesaid.

XIX. Provided always, and be it further enacted, that it shall and may be lawful for any Person or Persons to place or deposit in any Street, Lane or other Highway, Stones, Bricks, Timber, or other Materials for the purpose of building or repairing any House or Houses or other Work, to the extent of not more than one third of the breadth of such Street, Lane, or Highway: Provided always, nevertheless, that such Materials shall not occupy so much of any such Street, Lane or Highway through which a Cart can pass, as to prevent the passage of such Cart.

XX. And be it further enacted, that it shall and may be lawful for the Courts of General Sessions of the Peace for the several Counties and Districts to make such Rules and Regulations as may be deemed necessary to prevent the Side Paths or Ways along any Public Road or Street from being injured or destroyed; and every Person offending against such Rules and Regulations made, upon conviction thereof before one of His Majesty's Justices of the Peace, shall forfeit a sum not exceeding Forty Shillings nor less than Five Shillings, to be levied by Warrant of Distress and sale of the offender's Goods and Chattels, and shall be applied towards the repairs of such Paths or Ways.

XXI. And be it further enacted, that if any Person or Persons who shall be liable to perform the aforesaid labour on the said Roads, being duly notified, shall refuse or neglect to attend, or to send one able man to work as aforesaid, he or they shall forfeit and pay Four Shillings for every day's neglect.

XXII. And be it further enacted, that no person residing upon any Island within this Colony where there are any Highways or Roads, in which the performance of any Labour by this Act may be enforced, shall be compelled to work upon any Highway, Road, Street or Bridge, situate, or being upon the Main Land; or to furnish any Labourer, Cart, Team, Truck, Oxen or Horses, for the said service, nor be liable to any penalty or penalties for neglecting or refusing so to do; but each and every person residing on any such Island and liable to perform Labour under this Act, shall be obliged to perform the same upon some Highway or Public Road as aforesaid, upon the Island upon which he resides.

XXIII. And be it further enacted, that where any Island shall be connected with the Main Land by a Causeway, Bridge or Bridges, the persons residing on such Island who shall be liable to perform such Labour as aforesaid, shall be obliged to perform such part of the same, as may be required, in the keeping in repair or re-building such Causeway, Bridge or Bridges.

XXIV. And be it further enacted, that all Fines and Forfeitures directed to be paid by such Person or Persons as shall neglect to attend and perform the Labour, and furnish the Teams, Carts and Trucks, required by this Act for the repairs of Highways, Roads, Streets or Bridges, shall be sued for and recovered, with costs of suit, by the respective Surveyors of Highways before one or more Justices of the Peace, in like manner as debts are sued for and recovered; which Fines and Forfeitures so recovered, shall be applied to the repairs of the said Highways, Roads, Streets and Bridges.

XXV. And be it further enacted, that all Fines and Forfeitures not being less than Five Pounds as aforesaid, imposed by this Act, shall be recovered with costs of suit, by Bill, Plaint or Information, in any Court of Record in this Colony; one moiety thereof to be paid to the person or persons who shall sue for the same, and the other half to be applied to the repairs of the Highways, Roads, Streets, and Bridges, within the said Districts or Settlements, as the Court of General Sessions of the Peace for the County or District where the offence was committed, shall direct.

XXVI. And be it further enacted, that if after the publication of this Act, any Person or Persons shall cut down or otherwise destroy any trees or underwood, growing upon any ungranted Land, within the distance of Forty Yards from any Public Road or Path, such Person or Persons so offending shall, on proof thereof by the Oath of one credible Witness, before any one of His Majesty's Justices of the Peace for the district wherein the offence shall be committed, forfeit and pay a sum not exceeding

Forty Shillings, to be levied in the same manner as fines for the non-performance of Highway Labour, and to be paid and applied One Half to the Informer and the other Half to some one of the Surveyors of Highways for the benefit and improvement thereof.

XXVII. And be it further enacted, that all Carts, Waggons and Catamarans, employed or used upon any of the Public Roads of this Island, shall have the Owner's Name painted at full length on some conspicuous part thereof, in letters of not less size than Two Inches, and painted in White on a Black Ground; and that no Person or Persons whatsoever shall ride on any Cart or Catamaran, or the Shafts of the same, without having Reins properly fastened and secured to the Horse or Horses drawing the same; and all Carriages, Carts, Waggons, Catamarans, Sleighs, and other Vehicles, shall, by the Person or Persons in charge of the same, on meeting any other Carriage, Cart, Waggon, Catamaran, Sleigh, or other Vehicle, be conducted and kept on the left side of the Road, so far as the state of the Highways or Roads will permit; and any Person or Persons breaking or infringing any Regulations in this Section contained, shall be liable to a penalty not exceeding Forty Shillings, to be recovered before any Justice of Peace, on Complaint or Information, in a summary way.

XXVIII. And be it further enacted, that so much of this Act as confers any power or authority on the Surveyors and Magistrates referred to in the forming and making of Highways and Roads, shall not extend to any great Road or general Highway, and which His Excellency the Governor, by and with the advice of His Majesty's Council, shall, by any Proclamation or Proclamations for that purpose, from time to time, publicly declare to be such General Road or Highway.