

feers, and to direct him or them when they shall deem it expedient, to order such inhabitants of the county of Kent as are liable to perform statute labour upon the highways and roads, to keep in good and sufficient repair that part of the road and also the bridges upon the same, beginning at the upper or second fork of the river Thames, in the township of Tilbury, thence leading down the said river Thames, and continuing along Lake Sinclair to Belle River, and the said magistrates in manner aforesaid shall appoint one or more overseer or overseers and direct him or them to order such inhabitants liable to perform statute labour on the highways & roads living between M'Kee's Creek and Belle River in the County of Essex, to keep in good and sufficient repair the road and bridges between Pike's Creek and the said Belle River, and across the same.

Road & bridges to be kept in repair by the inhabitants of the County of Kent.

Road & bridges to be kept in repair by persons living between M'Kee's Creek & Belle River in the County of Essex.

Bridge to be kept in repair by the inhabitants of the townships of Howard and Harwich.

Road to be kept in repair by the inhabitants of Camden and Chatham.

Bridge to be kept in repair by the inhabitants of the upper half of the township of Raleigh.

Penalties for refusing or neglecting to do the duties required by this Act.

Mode of conviction and of levying the penalties.

Application of the same.

The work done on the said roads and bridges, part of the statute labour.

II. And be it further Enacted by the authority aforesaid, That the said magistrates in manner aforesaid, shall direct the overseer or overseers of the townships of Howard and Harwich in the county of Kent, to order the inhabitants of the said townships jointly to make and keep in repair a good and sufficient bridge over the creek running through lot number twenty two in Harwich, commonly called and known by M'Kirgan's Creek, and shall also direct the overseer or overseers of the townships of Camden and Chatham in the said County, to order the inhabitants of said townships jointly to make and keep in repair a good and sufficient road leading from the landing place on lot number three in Howard, back to Arnold's Mill, and the said magistrates are in like manner empowered to direct the overseer or overseers of the upper half or division of the township of Raleigh in the said county to order the inhabitants living within the same, to keep in good and sufficient repair the bridge over the main fork near the town of Chatham, in the township of Harwich.

III. And be it further enacted by the authority aforesaid, That if any person who shall have been appointed overseer in the manner aforesaid, shall refuse or neglect to perform the several and respective duties required of him by this act, he shall for each neglect or refusal thereof, forfeit and pay the sum of twenty shillings; and if any inhabitant as aforesaid shall refuse or neglect to work on such roads, or towards the repair of such bridges as aforesaid, after he shall have had from such overseer four days notice so to do, he shall for every such offence forfeit and pay the sum of five shillings.

IV. And be it further Enacted by the authority aforesaid, That the penalties inflicted by virtue of this act, shall be levied and recovered by warrant under the hand and seal of some justice of the peace of the said district, which warrant such justice is hereby empowered and required to grant, upon conviction of the offender by confession or upon oath of one credible witness, and in default of payment, to levy the same by distress and sale of the offender's goods, rendering the overplus, if any, to the owner thereof, the necessary charges of making such distress and sale, being first deducted, which said penalty shall be applied towards the making and keeping in repair the said roads and bridges abovementioned, and in default of such distress, it shall and may be lawful for any such justice to commit the person so refusing or neglecting to the common gaol for any time not exceeding one month, unless the penalty, forfeiture, costs and charges shall respectively be sooner by him paid.

V. And be it further enacted by the authority aforesaid, That the work to be done upon the said roads and bridges as aforesaid shall be considered as a part of the annual statute labour, and shall be required only at such times as the said statute labour may be by law required.

C H A P. XIII.

An Act for the better regulation of Special Juries.

[ Passed 16th March, 1808.

WHEREAS the existing laws of this Province are found insufficient to give special juries in the Court of King's Bench; Be it therefore enacted by the King's most Excellent Majesty, by and with the ad-

Preamble

vice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled, "an Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled, "an Act for making more effectual provision for the government of the Province of Quebec, in North America, and to make further provision for the government of the said Province," and by the authority of the same, That the tenth, eleventh, twelfth and thirteenth clauses of an act passed in the thirty-fourth year of his present Majesty's reign, entitled, "an act for the regulation of juries," and the whole of an act passed in the fortieth year of his present Majesty's reign, entitled "an act for the regulation of special juries;" shall be and the same are hereby repealed.

Part of the 34th Geo. 3 ch. 1, & the whole of 40th Geo. 3 ch. 2, repealed.

Special jury may be obtained without any motion in Court.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for his Majesty, by his attorney general, or by any other person duly authorized in that behalf, or for any prosecutor or defendant in any indictment or information for any misdemeanor now pending or hereafter to be brought or prosecuted in his Majesty's court of King's Bench in this Province, or for any plaintiff or plaintiffs, defendant or defendants in any action, suit or cause whatsoever, now pending or hereafter to be brought and carried on in the said court, to have and obtain a special jury for the trial of such indictment, information, action, suit or cause, without any motion in court.

Clerk of the Peace shall deliver to the sheriff a list of persons assessed for 200l. and upwards.

III. *And be it further enacted by the authority aforesaid,* That the clerk of the peace of each and every district shall annually on or before the fifteenth day of July, deliver or cause to be delivered to the Sheriff of the district, a list of such men throughout the district as shall be assessed on the several assessment rolls, for the sum of two hundred pounds and upwards, for which services the said clerks of the peace respectively shall be entitled to receive the sum of five shillings, by an order from the justices in quarter sessions assembled, upon the district treasurer.

Notice for appearance of the parties at the office of the sheriff for the district.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for his said Majesty, his heirs and successors, as aforesaid, or for any prosecutor or defendant in any such indictment or information, or for any plaintiff or plaintiffs, defendant or defendants in any action, suit or cause now pending or hereafter to be brought and carried on in the said court of King's Bench, for the purpose of having and obtaining a special jury for the trial of such indictment, information, action, suit or cause by themselves or their attorneys respectively, to serve or cause to be served on the opposite party or parties, his, her or their attorney or attorneys, a written notice, for him, her or them, to appear by themselves or their respective attorney or attorneys, at the office of the Sheriff of the district in which the said indictment, information, action, suit or cause is to be tried, on some certain day, which shall not be less than four days from the actual service of such notice, and such actual service shall be made either personally upon the opposite party or parties, his, her or their attorney, or by a copy of such notice, to be left at the usual place of abode of the opposite party or parties, or at the usual place of abode of his, her or their attorney.

Manner in which 40 names of the persons

V. *And be it further enacted by the authority aforesaid,* That the name of each and every man assessed as aforesaid, shall be written on separate and dis-

tinft pieces of paper, being all as near as may be of equal fize, and fhall be put together in a box or glafs to be provided for that purpofe, from which the fheriff, his deputy, or any indifferent perfon appointed by the court, may draw out forty of the faid papers, and the faid fheriff or his deputy fhall forthwith make a lift of the names written upon the faid forty papers, from which lift each party, his, her or their attorney or attornies, fhall and may alternately ftrike out twelve names, and the fheriff fhall fummon or caufe to be fummoned the fixteen perfons whose names fhall remain on fuch lift, to appear on the firft day of the next enfuing affizes, from whom a fpecial jury fhall be taken for the trial of the refpective indictment, information, action, fuit or caufe.

affefed fhall be drawn.

Each party may ftrike out 12 out of the 40 names, remaining 16 perfons fhall be fummoned by the fheriff to appear the next affizes.

If either of the parties do not appear to ftrike out the twelve names, fheriff or his deputy fhall do fo for fuch party.

VI. *And be it further enacted by the authority aforefaid,* That if any party or parties who fhall be ferved with fuch written notice, or his, her or their attorney, fhall neglect to appear at the Sheriff's office at the faid day appointed, it fhall and may be lawful for the Sheriff or his deputy, in behalf of fuch party, to ftrike out of the faid lift, twelve names in manner aforefaid.

5s to be given to each fpecial jurymen

VII. *And be it further enacted by the authority aforefaid,* That every perfon who fhall ferve on a fpecial jury as aforefaid, fhall be entitled to receive the fum of five fhillings.

Manner in which the fees for ftriking a fpecial jury fhall be paid.

VIII. *And be it further enacted by the Authority aforefaid,* That the perfon or party who fhall apply for fuch fpecial jury, fhall not only bear and pay the fees for ftriking fuch jury, but fhall alfo pay and difcharge all expences occafioned by the trial of the caufe by fuch fpecial jury, and fhall not have any further or other allowance for the fame upon taxation of cofts, than fuch perfon or party would be entitled unto in cafe the iffue had been tried by a common jury, unlefs the judge before whom the caufe is tried fhall immediately after the trial certify in open court, under his hand, upon the back of the record, that the fame was a caufe proper to be tried by a fpecial jury.

C H A P. XIV.

*An Act for the better regulation of Parifh and Town Officers throughout this Province.*

Passed 16th March, 1808.

Preamble.

**W**HEREAS the provifions contained in the feventh, eighth and tenth clauses of an act of the parliament of this Province, paffed in the forty-fixth year of his prefent Majesty's reign, entitled, "an act to alter and amend an act paffed in the thirty third year of his Majesty's reign, entitled "an act to provide for the nomination and appointment of parifh and town officers within this Province," have been found inexpedient; Be it therefore enacted by the King's Mof Excellent Majesty, by and with the advice and confent of the Legislative Council and Affembly of the Province of Upper Canada, conftituted and affembled by virtue of, & under the authority of an Act paffed in the Parliament of Great Britain, intituled, "an Act to repeal certain parts of an Act paffed in the fourteenth year of his Majesty's reign, intituled, "an Act for making more effectual provifion for the government of the Province of Quebec, in North America, and to make further provifion for the government of the faid Province," and by the authority of the fame, That the faid feventh, eighth and tenth clauses be and the fame are hereby repealed.

Part of the 46th Geo 3d ch. 5, repealed.