

Plaintiffs being
non-suited, &c.
defendant or
defendants to
have treble
costs.

general issue, and give this act and the special matter in evidence, at any trial to be had thereupon, and if the jury shall find for the defendant or defendants in any such action or suit, or if the plainiff or plaintiffs shall be nonsuited or discontinued his, her or their action or suit after the defendant or defendants shall have appeared, or if upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as any defendant hath in other cases to recover costs by law.

Former mili-
tia acts repeal-
ed.— No militia
appointment
shall be void
under any former
acts until
new commissi-
ons are issued
under this act.

XLIII. *And be it further enacted by the authority aforesaid,* That all former acts relating to the raising of the militia within this Province, shall from and after the passing of this act be, and are hereby repealed; Provided nevertheless, that nothing in this act contained shall in any wise extend or be construed to extend to annul or make void any militia appointment which may have taken place in pursuance of the former acts relating to the militia forces, or to prevent the completing any proceedings commenced in pursuance thereof, until new commissions are issued under and by virtue of this act.

C H A P. II.

An Act for granting to his Majesty a certain sum of Money out of the Funds applicable to the uses of this Province, to defray the expences of amending and repairing the Public Highways and Roads, laying out and opening new Roads, and building Bridges in the several Districts thereof.

[Passed 16th March, 1808.]

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS it would very much advance the general prosperity of this Province if the public highways and roads already laid out in the several districts thereof, were amended and repaired, and new additional roads were laid out and opened in certain parts of this Province, to which at present there is very difficult access, and certain bridges are also become indispensibly necessary, the want of which at present much endangers the lives of the King's subjects; and whereas the rates heretofore imposed, and the duty by law required to be performed on the said public highways and roads, are altogether inadequate to the several purposes aforesaid, and the imposing additional burthens by levying district rates sufficient for the purposes aforesaid, would in the present circumstances of this Province, be inconvenient, and the necessary provision can only be made out of the surplus of certain duties as yet unappropriated; in order therefore to defray the expences of repairing, amending, laying out and opening such highways and roads, and making such bridges as aforesaid, May it please your Majesty that it may be enacted, and be it therefore enacted by the King's Most Excellent Majesty, by & with the advice & consent of the legislative council & assembly of the Province of Upper Canada, constituted & assembled by virtue of & 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, & to make further provision for the government of the said Province," & by the authority of the same, That
from

from and out of the rates and duties already raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, there be granted to his Majesty, his Heirs and Successors, the sum of Sixteen hundred Pounds, to be issued out of the fund now remaining or hereafter to come into the Receiver General's hands, unappropriated, and arising from such rates and duties as last aforesaid, which said sum of sixteen hundred pounds shall be disposed of, appropriated and applied, in repairing the roads already laid out, and in laying out and opening new roads and making bridges in the several districts of this Province.

£1600 to be applied in repairing roads laid out, in laying out and opening new roads, and in making bridges.

II. *And be it further enacted by the authority aforesaid,* That the said sum of sixteen hundred pounds shall be apportioned in the following manner; to the Eastern District the sum of two hundred pounds, to the District of Johnstown the sum of two hundred pounds, to the Midland District the sum of two hundred pounds, to the District of Newcastle the sum of two hundred pounds, to the Home District the sum of two hundred pounds, to the District of Niagara the sum of two hundred pounds, to the District of London the sum of two hundred pounds, and to the Western district the sum of two hundred pounds.

Apportionment of said sum to the respective districts of this province.

III. *And be it further Enacted by the authority aforesaid,* That at any time from and after the passing of this act, it shall and may be lawful for the Governor, Lieutenant Governor or person administering the Government, to appoint one or more commissioner or commissioners for each and every district of this Province, for carrying the provisions of this Act into execution, which said commissioner or commissioners shall have full power and authority forthwith to proceed to repair and amend, lay out and open such roads, and repair and build such bridges, in each and every district of this Province, to which he or they are respectively appointed.

Commissioners to be appointed by the Governor, &c. for carrying this act into effect.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Governor, Lieutenant Governor or person administering the Government of this Province, to direct the money so apportioned as aforesaid, for each and every district thereof, to be paid to any one of the commissioners for such district or districts, whom it may please the Governor, Lieutenant Governor, or person administering the Government, to appoint, to receive the same. Provided nevertheless, and it is hereby declared, that nothing herein contained shall repeal or annul, or be held or construed to repeal or annul any of the provisions in any existing act or acts of this Province contained, for raising or levying the rates thereby imposed, or compelling the labour by such acts in any of them required, to be done and performed, on any of the public highways and roads comprised in such act contained, but all and every such act and acts is and are hereby declared to be and continue in full force. Provided also, that nothing in any former law or statute of this Province contained, shall from and after the passing of this act, be held or construed to empower or authorize any magistrate or overseer in any such law or statute mentioned, in any manner to interfere or give any directions touching or concerning any road or highway to be laid out, opened or repaired, under and by virtue of this act; nevertheless, the said magistrates and overseers, and every of them, is and are hereby authorized to carry into execution all and every such power and authorities as by such law or statutes they are invested with, in all cases in which the executing such powers will not impede or interfere with the powers or authorities given in and by this act.

Governor, &c. to direct the payment to be made of the money so apportioned for every district to each commissioner as he shall think fit within the same.

This act not to repeal the acts for levying rates and compelling labor on the highways.

Magistrates & overseers of the highways not to interfere with any road to be laid out by this act, but to execute the powers which they possess when they do not impede the powers to be executed by this act.

Limitation of actions for any thing done in pursuance of this act.

Defendants may plead the general issue & give the special matter in evidence.

Monies to be paid by the Receiver General in pursuance of warrants from the Gov. &c.

V. *And be it further enacted by the authority aforesaid,* That if any action or suit shall be commenced against any person or persons for any thing done or acted in pursuance of this act, then and in every such case, such action or suit shall be commenced or prosecuted within three calendar months after the fact committed, and not afterwards, and the defendant or defendants in any such action or suit, shall and may plead the general issue, and give this act and the special matter in evidence, at any trial to be had thereupon, and that the same was done in pursuance and by the authority of the present act, and if the same shall appear to have been done, or if any such action or suit shall be brought after the time limited for bringing the same, then the jury shall find for the defendant or defendants, or if the plaintiff or plaintiffs shall become non-suit or discontinue, his, her or their action after the defendant or defendants shall have appeared, or if judgement on demurrer shall be pronounced for the defendant or defendants, the defendant or defendants in all and every the several cases aforesaid, shall and may recover treble costs, and have the like remedy for the recovery thereof, as defendants are in any other cases by law entitled to.

VI. *And be it further enacted by the authority aforesaid,* That the monies hereby granted to his Majesty, shall be paid by the Receiver General, in discharge of such warrant or warrants as shall for the purposes herein before set forth, be from time to time issued by the Governor, Lieutenant Governor, or person administering the Government of this Province, and not otherwise, and the said Receiver General shall account to his Majesty, his heirs and successors, for the same, through the Lords Commissioners of his Majesty's Treasury for the time being, in such manner and form as his Majesty, his heirs and successors, shall be graciously pleased to direct.

C H A P. III.

An Act for granting to his Majesty an annual sum of Money for the purpose therein mentioned.

[Passed 16th March, 1808.]

MOST GRACIOUS SOVEREIGN,

Preamble.

Two salary to be paid to the adjutant general.

WHEREAS it is expedient that some provision be made for an adjutant general in this Province; Be it therefore enacted by the King's Most excellent Majesty, by and with the advice 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 from and out of the rates and duties already raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, there be granted to his Majesty, his Heirs, and Successors, annually, the sum of Two Hundred Pounds, for the payment of a salary to the adjutant general of the militia of this Province, for the time being.