

Laws of His Majesty's Province of Upper-Canada in North America. York: John Bennett, Printer to the King's Most Excellent Majesty, 1804.

44 George III – Chapter 6

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 expenses of amending and repairing the Public Highways and Roads, laying out and opening new Roads, and building Bridges in the several Districts thereof. Passed 9th March, 1804.

Most Gracious Sovereign,

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 whereof were amended and repaired, and new and additional roads were laid out and opened in certain parts of the Province, to which at present there is very difficult access, and certain bridges are also become indispensably necessary, the want of such 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 several purposes aforesaid, would in the present circumstances of the Province be found inconvenient, and the necessary provision can only be made out of the surplus of certain duties and taxes 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 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, the sum of one thousand 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 one thousand pounds shall be disposed of, appropriated, and applied in the repairing of the roads already laid out, and in the laying out and opening new roads, and making bridges in the several districts aforesaid, in such manner and under such regulations as to the Governor, Lieutenant Governor, or Person Administering the Government of this Province, with the advice and consent of the Executive Council thereof, shall from time to time seem meet.

II. And be it also Enacted by the Authority aforesaid, That at any time from and after the passing of this Act, it shall and may be lawful to and for the Governor, Lieutenant Governor or Person Administering the Government, by and with the advice and consent of the Executive Council of this Province, to issue one or more Proclamation or Proclamations, and therein to point out and

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direct the particular roads, as well with respect to those already laid out as those hereafter to be laid out and opened in all and every the several districts of this Province, and the metes and boundaries thereof respectively, upon which the said sum of one thousand pounds shall be expended, and the same Proclamation to name such and so many persons as to him shall seem meet, for each and every of the aforesaid districts, as Commissioners for carrying the provisions of this Act into execution, which said Commissioners, from and after the issuing such Proclamation, 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, as in the Proclamation or Proclamations to be issued in virtue of this Act shall be named and specified, as fully to all intents and purposes as if such Commissioners had been in this Act particularly named.

III. Provided always, and be it further Enacted by the Authority aforesaid, That before any Commissioner shall proceed to carry into execution the several powers and authorities by this Act conferred, he shall take the following Oath:

FORM OF OATH.

"I, A, B. do swear that I will faithfully and impartially, to the best of my skill and judgement, perform and carry into execution the several powers and authorities in me vested, in and by a certain Act of the Legislature of this Province, intituled, "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," and the Proclamation issued in virtue thereof, without favor or affection to any person or persons whomsoever, and will duly and faithfully account for all monies which shall from time to time come into my hands, for the purpose of carrying the provisions of this Act into execution—So help me God."

Which said Oath shall be taken before any one of his Majesty's Justices of the Peace in and for the district for which such Commissioner shall be appointed, and a certificate of which Oath the Justice administering the same is hereby required to transmit to the Clerk of the Executive Council of this Province, with all convenient speed, after such Oath shall have been by him administered.

IV. And be it further Enacted by the Authority aforesaid, That the respective Commissioners who shall, under the authority hereby given, be named for the several districts aforesaid, shall, so long as they shall continue Commissioners, have and enjoy exclusively, the right and privilege of laying out and expending such monies as shall from time to time be appropriated by the Governor, Lieutenant Governor, or Person Administering the Government of this Province, with the advice and consent of the Executive Council thereof, for any particular roads in the several districts aforesaid, without the interference of the Commissioners to be named for any other district.

Provided nevertheless, and it is hereby declared, That after the said Proclamation shall have been issued under the authority hereby given for all or any of the districts aforesaid, it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, by and with the advice and consent of the Executive Council thereof, to issue any

new or additional Proclamation or Proclamations, and thereby to name such other or additional Commissioner or Commissioners as to him shall meet, for all or for any of the districts aforesaid, for carrying the several purposes of this Act into execution, And from and after such new or additional Proclamation shall have so issued, all and every the powers and authority given or conferred by any former Proclamation or Proclamations, shall cease, determine, and be null and void to all intents and purposes as if the same had never been created or given; and the Commissioners in such new or additional Proclamation or Proclamations named, shall have and be invested with full power and authority to carry the several provisions of this Act into execution, in such and the like manner as the Commissioners in the previous Proclamation named might or could have done, any thing herein before contained to the contrary notwithstanding. Provided also, 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, or any of them, required or be done and performed on any of the public highways and roads comprised in such Acts, or any of them, or to repeal any of the provisions in such respective Acts 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 or 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 laws 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 and every Proclamation to be issued by virtue thereof.

V. And be it further Enacted by the Authority aforesaid, That from and after the execution of the powers hereby given, all and every the roads in all and every Proclamation and Proclamations to be issued under and by virtue of this Act, shall be held and deemed to be public highways and roads, and shall be subject, and liable to all the laws and statutes now in force, or hereafter to be passed and enacted relative to public highways and roads, as fully to all intents and purposes, as any of the present highways and roads are now or shall be made liable and subject thereto.

VI. Provided always, and be it further Enacted, 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 so 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 cost, and have the like remedy for the recovery thereof as defendants are in any other cases by law entitled to.

VII. 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.