

And Chapman in 1822

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An Act to repeal all the Laws now in force relating to the establishment, regulation, and improvement of the Great Roads of Communication through the Province, and to make more effectual provision for the same.

Passed the 21st March, 1822.

WHEREAS it is expedient that the several Acts now in force relating to the Great Roads of Communication through the Province should be repealed, and a more effectual system established for the regulation and improvement of the said Roads—

BE it enacted by the Lieutenant-Governor, Council, and Assembly, that an Act made and passed in the fifty-sixth year of the reign of His late Majesty King George the Third, intituled "An Act for the establishment, regulation and improvement of the Great Roads of Communication through the Province," also an Act made and passed in the fifty-seventh year of the same reign, intituled "An Act in addition to and in amendment of an Act, intituled 'An Act for the establishment, regulation, and improvement of the Great Roads of Communication through the Province,'" also an Act made and passed in the fifty-eighth year of the same reign, intituled "An Act in addition to and in amendment thereof," also an Act made and passed in the sixtieth year of the same reign, intituled "An Act further to alter and amend an Act intituled 'An Act for the establishment, regulation and improvement of the Great Roads of Communication through the Province,'" be and the said several Acts are hereby repealed.

II. And be it further enacted by the Lieutenant-Governor, Council and Assembly, that the Roads as herein described, be and they are hereby appointed and established to be the Great Roads of Communication through the Province, that is to say:—that the Road leading from Fredericton to Westmorland, be by the following line or route, from the Market House in Fredericton, to continue down on the West side of the River, until it comes opposite to the Indian Bay, there to cross the River, and then to join the Margerville Road, thence following the course of the Road through Margerville, Sheffield, and Westborough, to the Lunenburg, thence across the River to Oakley's, thence following the Road now laid out to Westmorland, thence to the head of Belisle, thence to the Finger Board at Knox's Farm, thence through Sussex Vale, thence by Charles's Passage to James Blakeney's upon the Pettinguish River, thence down the said River to the head, thence through the Portage between Pettinguish and Memramook Rivers, thence across the Memramook River by the New Bridge to the Court House in Dorchester, thence through the Portage to Sackville, thence by the Road leading over the Great Marsh to the Missaguash River to the head of the Province, to join the Post Road of Nova-Scotia.

That the Road from Saint John to the head of the Belisle, be by the following line or route, that is to say, from the Fork of the Road, on the Great Marsh near Saint John, through the Moose Pond Road, by Charles Clarke's, and the Honorable William's Farm, to the Grand Point, Road, thence by the same Road to Grand Point, thence crossing the River Keegan's to George Burgess's Farm, thence following the Road lately laid out to the eastward of Bates' Mill Pond, and through the middle land settlement by way of Lewis Pickett's, to the Guthe Road so called, thence by the Road last mentioned, to the head of Belisle Bay, meeting the Great Road from Fredericton to Westmorland there.

That the Road leading from Fredericton to Saint Andrews be by the following line or route, that is to say, from the Market House in Fredericton, to John Hazen's near the mouth of the Oromocto River, thence by the Road leading through the New Geary Settlement so called, to the Black House near the fork of the Magaguadavic River, thence by the Pleasant Ridge to Whitten's, thence by the Digdequash River to Connick's, thence to Gillman's, thence to Cookson's, and thence to Saint Andrews.

That the Road leading from Fredericton to the Canada line, be by the following line or route, that is to say, from the Market House in Fredericton on the west side of the River Saint John, to Tousant Godin's, thence to cross the River Saint John and to join the Road at John McKean's on the upper side of the Macquack River, from thence to join the Road lately opened leading to Pennington's bridge on the Great Road leading to Joseph Woolverton's in the Parish of Northampton, thence across the River to John to Mr. Fraser's lower Tavern in Woodstock, thence to the garrison at Presqu'Isle, thence across the larger Presqu'Isle Creek near the mouth of the River Roastock, thence across the said River near its mouth, thence to the Grandfalls, and from thence to the Canada line through the Madawaska settlement.

That the Road leading from Fredericton to Ristigouche in Northumberland be by the following line or route that is to say, from Fredericton across the Ferry to Moncton, thence following the present Road to Porters, thence along the southern side of the south west branch of Miramichi River, to Robert Dink's Farm, thence crossing to the North-western side of the said branch, thence along the same to Becher's Point, thence across the North-west branch of Miramichi River to Patrick Taylor's

on the northern side thereof, thence to continue on the northern side of the said branch and river to the Court House in Newcastle, thence to the river Nepisiguit, thence along the settlements on the coast of Caleur Bay to the river Ristigouche.

That the Road leading from Saint John to Saint Andrews be by the following line or route, that is to say, from Carleton to Carman's farm lot at Musquash, thence to Little's Tavern, from thence to the farm lot now occupied by John D Woodbury, from thence to the Magaguadavic Bridge at Stuart Seave's, from thence to the Wellington Bridge, across the Digdequash river, from thence to Chamcook by way of John Haycock's, from thence to Saint Andrews by Joseph Walton's.

That the Road leading from the City of St. John to Westmorland, be by the following line or route, that is to say, from Saint John to Hampton Ferry, thence by the road leading through Hampton to the burnt hill, thence by the new road to Knox's Farm, and thence to the Missaguash as herein before described.

That the road leading from the bend of the Pettinguish river in the County of Westmorland to Shediac, be by the following line or route that is to say, from the bend of the Pettinguish river by the present road to the head.

That the road from Dorchester to Chatham Village in the County of Northumberland, be by the following line or route, that is to say, from Amasa Whalton's house near the new Memramook bridge, by the present road over the old bridge to Shediac, from thence by the present route to Buctouche, thence to cross the river at Elijah Ayer's, thence to Mill Creek by the most practicable route, thence to Nichols' river, thence to the river Richibucto, thence crossing the rivers Kouchibouguack and Kouchibouguasis to Bay Du Vin river, thence through the upper settlements on Black and Napan rivers, to Chatham Village on the river Miramichi.

III. And be it further enacted, that all the before mentioned Public Roads shall be laid out four rods wide, and be opened and worked of such width as the Supervisors in their respective Districts shall in their discretion deem necessary.

IV. And be it further enacted, that the Lieutenant-Governor and Commander in Chief for the time being, by and with the advice of His Majesty's Council, is hereby authorized and empowered to appoint by warrant under his Hand and Seal, fit and discreet persons to be Supervisors of such parts of the Great Roads throughout the Province as hereafter is mentioned that is to say: one fit and discreet person to be Supervisor of the Great Road from Fredericton to the Finger Board, from the fork of the road in the marsh near the City of St. John, by way of Grand Point, to the head of Belisle; one other fit and discreet person to be Supervisor of the Great Road from Fredericton to Saint Andrews; one other fit and discreet person to be Supervisor of the Great Road from Fredericton to the Canada line; one other fit and discreet person to be Supervisor of the Great Road from Fredericton to the river Ristigouche; one other fit and discreet person to be Supervisor of the Great Road from Saint John to Saint Andrews; one other fit and discreet person to be Supervisor of the Great Road from Saint John to the Province line, to join the post road of Nova Scotia; and also of the Great Road from the bend of the river Pettinguish to Shediac; and also of the Great Road from Dorchester to Shediac; one other fit and discreet person to be Supervisor of the Great Road from Shediac to Chatham Village in the County of Northumberland.

V. And be it further enacted, that every Supervisor appointed by this Act shall give such security for the faithful performance of the duties required of him, and for accounting for the public money intrusted to him, as His Excellency the Lieutenant Governor or Commander in Chief for the time being, by and with the advice of His Majesty's Council, shall deem fit and proper.

VI. And be it further enacted, that the Supervisors appointed under and by virtue of this Act, shall have the sole ordering of the repairs and alterations which may be necessary for the completing the said Roads within their respective limits or districts, and keeping them at all times during their continuance in office, in the best practicable state for the passage of men, horses, cattle, teams and carriages: *Provided always*, that nothing in this Act shall deprive the several Commissioners of Highways, in the several and respective Parishes, of the power of directing the application of the statute labour of the Inhabitants, pursuant to the provisions of the Act for regulating laying out, and repairing Highways and roads, and for appointing Commissioners and Surveyors of Highways, within the several Towns and Parishes in this Province, of the said Parishes, either upon the great, or other roads within the same, as to the said Commissioners may appear most conducive to the public good.

VII. And be it further enacted, that each of the said Supervisors shall be allowed to retain for his services at and after the rate of ten per cent for every hundred pounds that shall be expended by him, out of the monies granted for the use of said roads: *Provided* that no Supervisor shall receive a larger sum than one hundred pounds in any one year.

VIII. And be it further enacted, that the said Supervisors shall respectively keep an exact account of the expenditure of all sums of money received by them respectively for the great roads, and shall produce receipts in writing from the several and respective persons to whom any part of the said sums of money shall be paid, as vouchers for the payment, and shall render an account thereof under oath, which oath any Justice of the Peace in the several and respective Counties, is hereby authorized to administer, to be transmitted to the office of the Secretary of the Province, for the inspection and examination of the General Assembly.

IX. And be it further enacted, that it shall be the duty of the said Supervisors, when practicable to prefer contracts for the making and repairing the roads and bridges within their respective districts, and to avoid as much as possible the hiring men by days work, the amount of the contracts and the wages of labourers hired by the day to be paid in cash.

X. And be it further enacted, that all fences, timber, wood, stones, boards, plank and rubbish of any kind, which shall be found to remain upon any part of the said public road after six days previous public notice by the respective Supervisors to remove the same shall be forfeited, and it shall and may be lawful for the said Supervisors respectively or any of them, without any suit or process of law whatever, to cause all articles so found to be seized and disposed of in such way and manner as he or they may think proper, and if the same shall be sold, the proceeds of such sale shall be applied by the said Supervisor or Supervisors for the repairs and improvement of such roads.

XI. And be it further enacted, that in case it shall be necessary or expedient for the Supervisors of their respective districts, to go out of the said roads, to procure materials for the repairs of the said roads, it shall and may be lawful for the said Supervisors respectively, when from the absence or obstinacy of the owner or possessor of the soil, no agreement can be made with him, to enter with workmen, carts, carriages, and teams upon any uncultivated lands, and therefrom to dig, take, and carry away for the repairs of said roads, stone, or gravel, and also to remove to cut down and carry away trees and bushes, for logs, poles and brushwork, to repair the same roads; and the damage done thereby, shall be appraised and ascertained by the judgment of three indifferent Freeholders, to be nominated by the nearest Justice of the Peace for that purpose, and the sum so ascertained, shall be paid or tendered by the Supervisors respectively, to the owner or possessor of the soil if demanded within three months after such appraisement.

XII. And be it further enacted, that if any person or persons do, or shall hereafter alter, stop up, or encroach upon any of the great roads of communication through the Province, in any way whatever, such persons so offending contrary to the meaning of this Act, shall for every offence forfeit the sum of two pounds, to be recovered with costs of suit before any one of His Majesty's Justices of the Peace for the County where such offence shall be committed, upon the oath of one or more credible witness or witnesses, and proved by warrant of distress and sale of the offender's goods and chattels, rendering the overplus, if any, to such offender; and for want of sufficient goods and chattels, the said Justice is hereby required to commit such offender to the common gaol of the County wherein such offence shall be committed, there to remain for a term not exceeding eight days, which penalty when recovered shall be paid to the Supervisor, for the use of the great road within the district.

XIII. And be it further enacted, that if any person or persons shall wilfully hinder or interrupt any Supervisor in the lawful exercise of the duties incident to his office, such person or persons so offending shall forfeit the sum of five pounds, to be recovered before any Justice of the Peace for the County where such offence may be committed, upon conviction upon the oath of one or more credible witness or witnesses, to be levied by warrant of distress and sale of the offender's goods and chattels, to be paid to the Supervisor of the district where such offence shall be committed, for the use of the public roads within such district.

XIV. And be it further enacted, that in case any action of trespass, or upon the case, shall be brought against any or either of the said Supervisors, by occasion of any thing done by them or him in the execution of his or their duty under and by virtue of this Act, such Supervisor or Supervisors may plead the general issue, and give the special matter in evidence at the trial, in like manner as if such matter had been fully and specially pleaded.

XV. And be it further enacted, that in case of the death, removal from the district, or refusal of any of the Supervisors to act, it shall and may be lawful for the Lieutenant-Governor or Commander in Chief for the time being, by and with the advice of His Majesty's Council, to nominate and appoint some other fit person, being a substantial Freeholder, and having a freehold and residence in the district for which such person

shall be appointed, to be Supervisor in the room of such person so deceased or removed from the district, or who shall refuse to act.

XVI. And be it further enacted, that the said Supervisors for the respective districts, shall not make any alteration in any part of the Great Roads within their respective districts through any improved lands, without the consent of the owner or owners thereof, or agreeing with or paying to him or them the value of the said improved land so to be laid out into such public road, with such damages as he or they may sustain by the said road; and in case they cannot agree, then the true value to be set and appraised by five disinterested Freeholders, to be nominated and appointed by the nearest Justice of the Peace, on the oath of such Freeholders, which oath the said Justice is hereby authorized to administer: the amount of the value and damages, with the incidental expense, to be defrayed by the Supervisors of the respective districts, out of the monies to be granted for the use of the said roads.

XVII. And be it further enacted, that the Supervisors of the respective districts for which they shall be appointed, shall enter in writing the said Public Highways, and the alterations that may be made from time to time within the same, and make a return thereof into the office of the Secretary of the Province, and also a duplicate into the office of the Clerk of the Peace for the County in which such public road lies, to be by such Clerk entered into a book kept by him for that purpose, and whatsoever the said Supervisors shall respectively do according to the power to them given in this Act, shall be valid and good.

Secretary's Office, 13th April, 1822.
Representation having been made that sundry Persons are in the practice of burning Charcoal on the Common and Public Grounds in Fredericton—this practice is strictly forbidden by order of The Lieutenant Governor in Council—And any Person found so offending hereafter, will be immediately prosecuted.

NEW-BRUNSWICK,
In Chancery,
2d April, 1822.

Between { Henry Smith, Administrator of
James Bell, deceased,
and
Frederick Depyster, and others.

FORASMUCH as the Court was this day informed by Mr. Bliss, Counsel for the Complainant, that the Bill in this cause was filed on the twenty-sixth day of April last, as by the Certificate of his Clerk in Court appears, and Process of Subpoena, taken out against the said Defendant, Frederick Depyster, but that the said Defendant now resides without the limits of this Province, or doth otherwise abscond to avoid being served with such Process, as by affidavit appears: And the said Certificate and Affidavit being read, and the truth of the above allegation being made out to the satisfaction of the Court,

It is ordered, that the said Defendant, Frederick Depyster, do appear to the Complainant's Bill, on or before the ninth day of July next.

By the Court,
D. L. ROBINSON, Register.

WHEREAS (in pursuance of an Act passed in the twenty-sixth year of His late Majesty's Reign, for relief against absconding Debtors) We the Subscribers having been duly appointed and sworn before JOHN KEILLOR, Esquire, one of His Majesty's Justices of the Inferior Court of Common Pleas, in and for the County of Westmorland, as Trustees for all and every of the Creditors of James Hamilton, late of Dorchester, in said County, Stone Cutter, an absconding Debtor: We do therefore, in pursuance of such appointment, require all persons indebted to the said James Hamilton, to pay to us on or before