

C H A P. XXI. Justices to ascertain roads, &c.

III. AND, for the better ascertaining what is or shall be deemed public roads, BE IT LIKEWISE ENACTED, by the authority aforesaid, That the justices of the county courts shall set down and ascertain in their records, once every year, what are the public roads of their respective counties, and appoint overseers of the same; and that no person whatsoever shall alter or change any such public roads, without the leave or licence of the governor and council, or justices of the county courts, upon penalty of five hundred pounds of tobacco.

Overseers neglecting to be fined.

IV. AND, If any overseer so appointed should neglect to clear the roads so as aforesaid, he shall be fined five hundred pounds of tobacco in cask. And every labourer that shall refuse to serve and obey the overseer, and every master of servants, that being summoned or warned, shall refuse to send (a) all his taxable male servants to the overseer aforesaid, he or they shall be fined; that is to say, every labourer, one hundred pounds of tobacco, and the said master, for every servant warned and not sent, one hundred pounds of tobacco. And the clerk of the county is hereby obliged to issue out warrants to the overseers appointed, upon penalty of one thousand pounds of tobacco; and the sheriffs of each respective counties are to deliver the same to the several and respective overseers so appointed as aforesaid, *ex officio*, on penalty of one thousand pounds of tobacco in cask; the one half of all which fines shall be employed and disposed of towards the defraying the county charge, in such manner as the commissioners of each respective county shall, in their discretion, think convenient; the other half to him or them that shall inform, or sue for the same; to be recovered in her majesty's name, for the use aforesaid, by bill, plaint or information, (b) in any court of record within this province, wherein no essoin, protection, or wager of law to be allowed.

- (a) Owners of water-mills are not obliged to send any of their taxables to work on public roads. See 1753, ch. 16; and 1756, ch. 12. Owners of iron-works are obliged only to send one out of every ten labourers employed in such works. See 1750, ch. 14.
- (b) The manner of recovery of fines for not appearing at the clearing of the highways, is altered by the act of 1723, ch. 17, which directs such offenders to be prosecuted before a single magistrate.

How roads are to be marked.

V. AND, That all the roads that lead to any ferries, court-house of any county, or to any church, or leading through any county to the port of Annapolis, shall be marked on both sides the road with two notches; if the road lead to Annapolis, the road that leads there, at the leaving the other road, shall be marked on the face of the tree, in a smooth place cut for that purpose, with the letters A A set on with a pair of marking-irons, and coloured; and so with two notches all along the road; and where at any place it leaves any other road, shall be again distinguished with the mark aforesaid, on the face of the tree, with a pair of marking-irons, and coloured as aforesaid. And any road on the eastern shore, in Talbot county, that leads to the port of (c) William-Stadt; at the entering into the same, and upon parting with or dividing from any other road, shall be marked on the face of a tree, in a smooth place cut for that purpose, with the letter W, and so with two notches all along the road. And the roads that lead to any county court-house, shall have two notches on the trees on both sides of the road as aforesaid, and another notch a distance above the other two. And any road that leads to a church, shall be marked at the entrance into the same, and at the leaving any other road, with a slip cut down the face of the tree, near the ground. And any road leading to a ferry, and dividing from other public roads, shall be marked with three notches of equal distance at the entrance into the same. And these rules and methods, the several justices of the county courts shall, from time to time, give in charge to the overseers of the highways, by them to be appointed for that purpose, who are likewise enjoined carefully and strictly to observe and perform the same, under the penalty aforesaid.

(c) Commonly called Oxford. See the act of 1695, ch. 7.

Posts to be set up.

VI. AND, where any road shall lead through any seated plantation or old fields, BE IT ENACTED, by the authority aforesaid, by and with the advice and consent aforesaid, That the several and respective overseers, within their several and respective precincts, do set up posts, so many as may be perceived from one to the other; which posts shall be marked and notched according to the place they lead to, as before in this act, for the marking and notching of roads, have been appointed; and that the posts of all gates, through which any such road shall lead as aforesaid, be marked and notched as aforesaid, under the penalty aforesaid, any thing in this act to the contrary notwithstanding. And that the said overseers, shall, from time to time, as often as occasion shall require, fall all dead trees on each side of all main roads, whose limbs hang over the road, to prevent any damage that may happen by their falling on travellers.

By 1794, ch. 52, and other acts, this act is declared void as to certain counties, and it extends at present only to the counties of Saint-Mary's, Somerset, Calvert, Charles and Dorchester.