

Laws of His Majesty's Province of Upper Canada, passed in the year 1826. York: Robert Stanton, 1826.

7 George IV – Chapter 19

An Act to repeal parts of and to explain and amend the several Acts of this Province relating to the Welland Canal Company. (Passed 30th January, 1826.)

Whereas it is expedient to explain alter and amend an Act passed in the Fourth year of His Majesty's Reign, intituled, An Act to Incorporate certain persons therein mentioned under the style and title of the Welland Canal Company, and also a certain other Act passed in the Fifth year of his Majesty's Reign intituled, An Act to repeal part of and extend the provisions of an Act passed in the Fourth year of His present Majesty's Reign, intituled, An Act to Incorporate certain persons therein mentioned under the style and title of the Welland Canal Company: And Whereas it has been found that to descend the Mountain by the route prescribed by the seventh Section of the above recited Statute, passed in the Fifth year of His Majesty's Reign, would be attended with great difficulty and expense, and that a new route has been surveyed and reported upon, which will diminish the distance and expense and afford a more easy and practicable descent; And Whereas, the President and Directors of the Welland Canal Company have, by petition, prayed that the Legislature would sanction a deviation, as hereinafter mentioned, from the route prescribed by the Act last mentioned, and it is expedient to authorise the same: 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 so much of the seventh clause of the last above mentioned Act, as relates to the route along which that part of the said Canal which is to connect the River Welland with Lake Ontario, shall be conducted, shall be, and the same is hereby repealed, and that the route along which that part of the said Canal shall be conducted, shall be as follows—that is to say, by Shaver's Ravine and Dick's Creek, to the Valley of the Twelve Mile Creek, as the said Route has been surveyed and reported upon, by Mr. Clowes and Mr. Roberts, Engineers, or as nearly thereto as circumstances will permit, and that from the said Twelve Mile Creek to Lake Ontario the same route shall be pursued as has been prescribed by the Act last mentioned or as near thereto as circumstances will permit.

II. And Whereas, by the second clause of the said Act passed in the Fourth year of His Majesty's Reign it is provided that nothing therein contained shall extend to compel the owner or owners of any Mill Seat to sell, convey, or otherwise depart with the same to the said Company, and it being intended that the said Proviso should only apply to such good Mill Seats as actually existed before the making of the said Canal: Be it therefore enacted by the authority aforesaid, That the said recited proviso shall not extend or be construed to extend to any Mill Seat or Mill Seats not existing before the making of the said Canal.

III. And be it further enacted by the authority aforesaid, That the value of any Mill Seat or Tract of Land which the said Company shall be authorised to purchase for the purposes of machinery, shall be ascertained in case of disagreement, by arbitrators, in the same manner as the value of the Land is to be assessed through which the said Canal shall pass, and that the said arbitrators shall be also empowered to decide whether the Mill Seat or Seats or other Machinery desired by the said Company is such as the person owning the same, can be compelled to part with to the said Company.

IV. And Whereas, it is desirable that the arbitrators, to be appointed under the seventh clause of the said Act, passed in the Fourth year of His Majesty's Reign, should be empowered to consider the advantages as well as the disadvantages of the said Canal, as respects the Lands of any person or persons through which the same may pass: Be it therefore enacted by the authority aforesaid, That the said arbitrators so to be appointed as aforesaid, shall and may and they are hereby authorised and required in assessing the value of any Lands or Tenements of any person or persons proposed to be purchased by the said Company, or the amount of damages to be paid by the said Company to any person or persons under the provisions of the said seventh clause, to take into their consideration the advantages likely to accrue as well as the injury or damage occasioned to Lands or Tenements by reason of the said Canal: Provided always nevertheless, That it shall not be in the power of such arbitrators to award that any such sum shall be paid by any person or persons to the said Company, on account of any such advantages as aforesaid.

V. And be it further enacted by the authority aforesaid, That all matters of disagreement or dispute to be settled or determined by arbitration, under the provision of the said seventh clause of the said Act, passed in the Fourth year of His Majesty's Reign, shall be referred to arbitrators as therein provided, so that the award or awards of such arbitrators may be made, published, and declared, on or before the first day of September next, and that all and every sum of money, by such award or awards directed to be paid by the said Company, shall be paid to the party or parties entitled to receive the same on or before the first day of October next.

VI. And be it further enacted by the authority aforesaid, That whenever the Canal, to be made by the said Company, in any part of its course from the Grand River to Lake Ontario, shall have the effect of depriving any person possessing Lands adjacent thereto of any privilege or convenience of water, for ordinary purposes, which he had before enjoyed, it shall be incumbent upon the said Company to allow to the person or persons, then and at all times hereafter possessing the said Lands, free and convenient access, for persons and cattle, to the waters of the said Canal.

VII. And Whereas, in consequence of the enlargement of the said Canal, in order to adapt it to Schooner navigation, it is expedient to repeal the eleventh clause of the said Act, passed in the Fourth year His Majesty's Reign, and to make further provision in respect thereof, Be it therefore enacted by the authority aforesaid, That the said clause shall be and the same is hereby repealed, and it shall be lawful for any person possessing Lands through which the said Canal shall pass, and upon which there shall now be buildings, improvements, or Fields, which the said Canal shall divide, to erect a bridge at his own expense to connect the same: Provided always, that such bridge shall not prevent greater obstacles to the navigation of the said Canal, than the bridges erected thereon by the said Company.