

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday the Eleventh day of February, 1819; and continued by several Prorogations until Thursday, the Tenth day of February, 1820, in the Sixtieth year of the Reign of our Sovereign Lord George the Third, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith &c. &c. being the Second Session of the Eleventh General Assembly, convened in the said Province.

60 George III – Chapter 26

An Act for opening and maintaining a Road to the Settlements on Gay's River.

Whereas the opening and maintaining a road from the town of Dartmouth, in a direct course towards the settlements at and near Gay's River, will shorten the communication between the town of Halifax, and those parts of the province, that are adjacent to, and beyond that river, and greatly benefit the inhabitants thereof. And whereas, certain persons have proposed to associate themselves together for opening and maintaining such road at their own expence, provided they shall be incorporated and privileged as a turnpike company:

I. Be it therefore enacted, by the Governor, Council and Assembly, that whenever a sufficient number of persons shall have associated themselves together for the purposes mentioned in the preamble of this act, and agreed to raise sufficient monies for making such road, it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief, for the time being, by letters patent, under the great seal of this province, to make, erect, and incorporate, all and singular the persons who from time to time, shall be adventurers in, or parties to, the said undertaking, and their respective assigns and representatives, into one body politic and corporate, in deed and in name, under the title of the Dartmouth Turnpike Company; and by that name to have succession, to sue and be sued, to continue for the term of fifty years; to have a common seal; and to possess and enjoy such powers, with respect to the choice of a president and other officers, making bye laws, and regulating the affairs of the said company, and to be under and subject to such restrictions as shall be expressed in the said letters patent.

II. And be it further enacted, that such letters patent shall specify the places where such intended road shall commence, and where it shall terminate, and shall limit and declare the breadth and general course and direction thereof; and shall also contain a proviso for rendering the said letters patent void, unless the said road shall be completed within three years from the day of the date thereof, and made a sufficient carriage road or highway.

III. And be it further enacted, that it shall and may be lawful for such company, when incorporated, to open, make and complete, between the places to be specified in such letters patent, for the commencement and termination thereof, and in, upon, over and across, the lands lying between the same, a good and sufficient road or highway for carts, carriages, passengers, cattle, and conveyances of every description, and of any width not exceeding the breadth of one hundred feet, and in the nearest and shortest course and

direction, between its so specified commencement and termination, and where it shall be practicable or most convenient and proper to make and open the said road; and the said road when made, to repair, alter and improve at all times, during the continuance of the said company, and in such manner as they shall think proper. And the said road, when completed and approved of in manner as in herein after mentioned, shall thenceforth be the property of the said company, and be by them occupied and enjoyed as a turnpike road; and the land and soil over which the same shall be made and kept up, shall, to the extent in width expressed in the said letters patent, vest in the said company, during their continuance, and as the sole and exclusive owners thereof.

IV. Provided always, and be it further enacted, that if, in opening and making the said road, or altering the same, when made, it shall be judged necessary to make or alter the same, through any improved or enclosed lands, or through waste or unimproved lands, whose proprietor might sustain special damage thereby, the said company shall exhibit a plan of the course of such road or alteration, to His Majesty's justice of the peace, for the county or district in which the same lies, in their general or any special sessions, and, at the prayer of the said company, the justices present at such sessions, being three at the least, or the major part of them, shall order a precept to be issued to the sheriff of such county or district, directing him to summon a jury of freeholders, from one or more of the neighbouring townships, lying most convenient to the place where such road or alteration is to be made, and such jury shall be composed of persons having no interest in, or claim to, the lands, through which road or alteration is to be made, and not of kin to any of the parties interested therein, or in the said company: and due notice of the time of taking the inquisition, shall be given to the party interested in the said land, his attorney or agent, and to the said company, at least ten days previous thereto; and at the time appointed, the said jury shall be impanelled and sworn by the sheriff, to view the lands through which the said road is to be made or altered, and, according to the evidence produced, to assess damages as follows, that is to say: to the owner or owners, tenant or tenants, of enclosed or improved lands, according to their several interests, as the jury shall think reasonable, for the value of the lands required for the road, and improvements made on the same, and also, for the expence of making fences or ditches on the side of the road: and to the owner or proprietor of waste or unimproved lands, according to the special damage which he may sustain thereby.

V. And be it further enacted, that the verdict of the said jury shall be returned, by the sheriff, to the clerk of the peace of the county or district, who shall thereupon send notice to the respective owners and tenants of such lands, of the nature and course of the road to be made or altered through their lands, and of the recompence awarded them by the jury, and also of the day appointed by the said justices to consider of the said verdict: and if, on such day, no reasonable cause shall be shewn to the said justices, why the said verdict should not be confirmed, they shall confirm and record the said road, and shall direct the payment, by the said company, of the sums awarded by the jury to the persons in whose favour such award shall have passed, and also, of the lawful fees of the said sheriff and jury, and upon

the said payment being made, the said road may be made or altered accordingly, and thenceforth become a highway for all the purposes of this act.

VI. And be it further enacted, that in case it be necessary or expedient for the said company or their servants, to go out of the road when made or making, to procure materials for making or improving the same, it shall be lawful for the said company and their servants, (where 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 cattle, upon any uncultivated lands, and therefrom to dig up, take and carry away, stones, earth and gravel, and to cut down and carry away therefrom, trees and bushes for logs, poles and brushwood, for making or repairing such road, and the damage done thereby shall be appraised and ascertained by the judgement 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 company to the owner of the soil, if demanded within three months from such appraisement.

VII. And be it further enacted, that when the said road shall be approved as herein after mentioned, it shall and may be lawful for the said company to make and erect thereon, such number of toll or turnpike gates and bars, as they shall think proper, and at each and every of such gates or bars, to demand, take, levy, collect and receive a reasonable toll, rate or duty, for and upon each and every person that shall travel or pass over the said road, and for and upon each and every wagon, cart, carriage, sled or vehicle, and all kinds of cattle, and all goods, wares, merchandise, articles or things whatsoever, that shall pass, repass, go, travel, be carried or transported in, upon or over, the said road or any part thereof.

VIII. And be it further enacted, that it shall be lawful for His Majesty's justices of the peace for the county of Halifax, in any general or special sessions, and they are hereby authorised to make and establish such rules and regulations, as they shall judge expedient, touching the tolls, rates or duties, to be levied and received by the said company, on the said road, at their respective toll or turnpike gates or bars; and touching the altering or changing the amounts thereof; and touching and publishing the amounts of the tolls from time to time in force; and touching the recovery of such tolls; and imposing penalties, for non-payment thereof, and for throwing down and injuring such bars or gates, or hindering the said company, their servants or assigns, in the collecting or receiving, their said tolls or duties; and the said rules and regulations, the said justices are also empowered from time to time, to change and alter as need shall require.

IX. And be it further enacted, that it shall be lawful for the Governor, Lieutenant-Governor, or Commander in Chief, for the time being, to appoint three fit and proper persons to be inspectors of the said road, and their authority, to revoke and renew at pleasure, during the continuance of the said company.

X. And be it further enacted, that as soon as the said road shall be completed, the said inspectors shall examine and inspect the same, and report to the said Governor, Lieutenant-

Governor, or Commander in Chief, for the time being, as to the state and sufficiency of the said road, and whether the same has been rendered a sufficient and proper highway; and when the said inspectors shall report that the said road is in all respects sufficiently completed, the same shall be approved of, and confirmed, by the said Governor, Lieutenant-Governor, or Commander in Chief: and public notice shall be given in the newspapers, that such road is opened as a public turnpike road, and from the time of giving such notice, the said company shall be, and they are hereby, empowered to demand and receive the tolls aforesaid thereon.

XI. And be it further enacted, that if at any time after the approval and opening of the said road, the same shall be found by the said inspectors to be out of repair, unsafe, or insufficient, and after notice of such defects therein, if the said company shall neglect, during thirty days, to repair the same completely, then it shall be lawful for the said inspectors to direct the said toll gates and bars to be opened or removed, and to continue opened or removed until the said company shall have completely repaired the said road, and no toll gate or imposition whatever shall be demanded by, or be payable to, the said company, while the said road shall remain unrepaired, nor until the said inspectors shall permit the replacing and shutting the said turnpike gates or bars.

XII. And be it further enacted, that in case a sufficient number of persons shall not have associated themselves together, and obtained a charter for their incorporation, agreeably to the provisions contained in this act, within the space of two years, to be computed from the end of the present session of general assembly, then, and in such case, this act, and every matter and thing therein contained, shall be null and void, to all intents and purposes, any thing herein contained to the contrary thereof notwithstanding.