

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1839. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1839.

2 Victoria – Chapter 34

An Act to provide for making and maintaining a Canal across Grimross Neck, in Queen's County. Passed 23d March 1839.

Whereas the cutting a Canal across Grimross Neck, in Queen's County, would greatly facilitate the navigation of the River of Saint John, and advance the general interests of the Province:

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and may be lawful for the Lieutenant Governor or Commander in Chief for the time being, to appoint three fit and proper persons to be Commissioners for opening, cutting, finishing and maintaining a Canal across Grimross Neck, in Queen's County, and to remove them or either of them at pleasure, and to appoint others in their stead.

II. And be it enacted, That it shall and may be lawful to and for the said Commissioners, their, agents, servants, workmen and assistants, and they are hereby authorized and empowered, to design, erect, order, dig, excavate and build, and to complete, maintain and keep in repair a Canal across the isthmus or neck of land commonly called Grimross Neck, in Queen's County, at such place as they may deem most advisable and fit for such Canal, whether on private property or on a public highway, and to dig and make proper foundations in the River Saint John and Gagetown Creek, and on the lands and grounds lying on each side of said Canal, and to cut and level the banks of the said River and Creek in such manner as may be necessary and proper for making the said Canal, and to cut, remove, take and carry away all and every impediment whatever, which may in any wise tend to hinder or impede the erecting and completing the said Canal, and to execute all other things requisite and necessary, useful or convenient, for erecting, digging, maintaining and supporting the said Canal according to the true intent and meaning of this Act; and further, that they may from time to time enter and go in and upon the lands and grounds adjacent to the said Canal for the purpose of making surveys, examinations, or other necessary arrangements for fixing the site of the said Canal; and further that for the purpose of erecting, digging, building, maintaining, repairing and supporting the said Canal, the Commissioners shall from time to time have full power and authority to land and place on either side of said Canal, within twenty yards of the same, all materials and other things to be used in and about the same, and there to work and use such materials and things according as they the said Commissioners, and the persons to be by them appointed, shall think proper, without any previous agreement with the owner or owners of the land, doing as little damage as may be, and making such satisfaction as hereinafter mentioned to the respective owners and occupiers of all lands and grounds, tenements and hereditaments which shall be used and occupied, altered, damaged, spoiled, taken or made use of by means or for the purposes of this Act.

III. And be it enacted, That the said Commissioners shall make, allow and pay reasonable and proper compensation and satisfaction for all lands, tenements and hereditaments taken, used and

occupied, altered, damaged or spoiled by means of and for the uses and purposes of this Act, to be agreed upon by the said Commissioners and the respective owners and occupiers of such lands, tenements and hereditaments; and in case of disagreement between them or any of them, then such compensation and satisfaction shall be determined by three arbitrators, one to be chosen by the said Commissioners and one by the owner or owners, occupier or occupiers of the private property in question; which two arbitrators so chosen shall choose the third arbitrator, and in case of their not agreeing in such choice within ten days after their appointment, then and in such case it shall and may be lawful for the Lieutenant Governor or Commander in Chief for the time being, upon application of the said Commissioners to appoint the third arbitrator; the award of the said arbitrators or any two of them shall be final and conclusive in the matters referred to them; and the amount adjudged and awarded to them respectively shall be paid by the said Commissioners within thirty days after such award shall be duly made and delivered; and in case any of the said owners or occupiers of such property shall decline or refuse to make such agreement or appoint such arbitrator, then and in such case it is hereby declared, that such person or persons so declining or refusing shall have no other remedy, either at law or in equity against the said Commissioners for any loss or damage which he, she or they may sustain by reason of making, erecting, digging, building, finishing and maintaining such Canal.

IV. And be it enacted, That if any person or persons shall wilfully or maliciously, and to the prejudice of the said undertaking, break, damage, throw down, destroy, injure or remove any of the works to be erected or materials to be used by virtue of this Act, any such person or persons so offending shall be deemed and adjudged guilty of felony, and being lawfully convicted thereof shall be liable and subject to the punishment prescribed for felony in and by an Act made and passed in the first year of the reign of His late Majesty King William the Fourth, intituled "An Act for improving the administration of Justice in Criminal cases."

V. Provided always and be it enacted, That no greater sum shall be granted by the Legislature of this Province for the cutting, making and completing of the said Canal, and for the land through which the same shall be cut, then the sum of one thousand two hundred and fifty pounds, and that all further expence incurred in and about the making and completing of the same, shall be borne by individual subscription.

VI. And be it enacted, That it shall not be lawful for the Commissioners to be appointed under the provisions of this Act, to enter into any Contract for the cutting, making and completing of the said intended Canal until a sufficient sum of money shall be raised and paid from individual subscriptions; which, with the said sum of one thousand two hundred and fifty pounds mentioned in the fifth section of this Act, shall be deemed sufficient to complete the said work, anything in this Act contained to the contrary notwithstanding.

VII. And be it enacted, That the said Canal and all and singular the lands on either side taken in the manner hereinbefore pointed out, and all roads and paths along the same, and all other the appurtenances to the said lands and Canal belonging, shall be deemed and taken to the public property of the Province, and under the control of the Legislature thereof, and shall be free from any toll or charge.