

## CHAP. XVIII.

*AN ACT* granting to His Majesty a sum of Money, to be raised by Debenture, for the Improvement of the Navigation of the River Saint Lawrence.

[Passed 13th February, 1833.]

**WHEREAS** it is highly important to the Agricultural and Commercial interests of this Province that the Navigation of the River Saint Lawrence should be improved; *and whereas* it is expedient to raise a sum of Money by way of loan for that purpose:—*Be it therefore enacted*, by the King's Preamble. 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, entitled "An Act to repeal certain parts of an Act passed in the Fourteenth year of His Majesty's Reign, entitled '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 it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, so soon after the passing of this Act as he may deem expedient, to authorize and direct His Majesty's Receiver General of this Province to raise by £70,000 to be raised by Debenture. loan, from any person or persons, Bodies Corporate or Politic, who may be willing to advance the same upon the Credit of the Government Bills or Debentures authorized to be issued under this Act, a sum of Money not exceeding Seventy Thousand Pounds, at a rate of Interest not exceeding Five per Cent per annum payable half yearly in this Province, or Four per Cent per annum payable half yearly in London, or at as much lower rate of Interest as the same can be obtained for.

II. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Receiver General for the time being, to cause Receiver General to issue Debentures. or direct any number of Debentures to be made out for any such sum or sums of Money, not exceeding in the whole the said sum of Seventy Thousand Pounds, as any person or persons, Body Politic or Corporate, shall agree to advance on the credit of the said Debentures, which Debentures shall be prepared and made out in such method and form as His Majesty's Receiver General shall think most safe and convenient, and that for each loan or advance three separate Debentures shall issue at the same time, bearing date on the day on which the same shall actually

be issued, and being each for the payment of one third of the sum so advanced, at the expiration of Eight, nine, and ten years respectively, with interest at the rate aforesaid, from the date of each Debenture until the same shall be discharged, and every such Debenture shall and may be signed by the said Receiver General of this Province for the time being.

Punishment for  
forging Debentures.

III. *And be it further enacted by the authority aforesaid,* That if any person or persons shall Forge or Counterfeit any such Debenture as aforesaid which shall be issued under the authority of this Act and uncanceled, or any stamp, endorsement or writing thereon or therein, or tender in payment any such forged Debenture, or any Debenture with such counterfeit endorsement or writing thereon, or shall demand to have any such counterfeit Debenture, or any Debenture with such counterfeit endorsement or writing thereupon or therein exchanged for ready Money by any person or persons who shall be obliged and required to exchange the same, or by any other person or persons whomsoever, knowing the Debenture so tendered in payment or to be exchanged, or the endorsement or writing thereupon or therein to be forged or counterfeited, with intent to defraud His Majesty, His Heirs and Successors, or the persons appointed to pay off the same, or any of them, or any other person or persons, Bodies Politic or Corporate, then every such person or persons so offending, being thereof lawfully convicted, shall be adjudged a Felon, and shall suffer as in case of Felony.

Receiver General  
to transmit to the  
Governor, before  
each Session of the  
Legislature, an ac-  
count of the Deben-  
tures issued.

IV. *And be it further enacted by the authority aforesaid,* That the Receiver General of this Province for the time being shall, before each Session of the Parliament of this Province, transmit to the Governor, Lieutenant Governor, or Person Administering the Government of this Province, a correct account of the numbers, amounts, and dates of the different Debentures which he may have issued under the authority of this Act, of the amount of the Debentures redeemed by him and the interest paid thereon respectively, and also of the amount of the said Debentures out-standing and unredeemed at the periods aforesaid, and of the expenses attending the issuing of the same, to be laid before the Legislature of this Province.

Interest on Deben-  
tures when and how  
to be paid.

V. *And be it further enacted by the authority aforesaid,* That the interest growing due upon the said Debentures, shall and may be payable in half yearly periods, to be computed from the date thereof, and shall and may be paid on demand by the Receiver General of this Province for the time being, who shall take care to have the same indorsed on each Debenture at the time of the payment thereof, expressing the period

up to which the said interest shall have been paid, and shall take receipts for the same from the persons respectively, and that the Governor, Lieutenant Governor, or Person Administering the Government of this Province, shall, after the Thirtieth day of June, and the Thirty-first day of December in each year, issue Warrants to the Receiver General for the payment of the amount of interest that shall have been advanced according to the receipts to be taken by him as aforesaid.

VI. *And be it further enacted by the authority aforesaid,* That a separate Warrant shall be made to the Receiver General by the Governor, Lieutenant Governor, or Person Administering the Government of this Province for the time being, for the payment of each Debenture, as the same may become due, and be presented in favor of the lawful holder thereof, and that such Debentures as shall from time to time be discharged and paid off, shall be cancelled and made void by the said Receiver General.

Debentures how to be paid off and cancelled.

VII. *And be it further enacted by the authority aforesaid,* That at any time after the said Debentures, or any of them, shall respectively become due, according to the terms thereof, it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, if he thinks proper so to do, to direct a notice to be inserted in the Upper Canada Gazette, requiring all holders of the said Debentures to present the same for payment according to this Act; and if after the insertion of the said notice for three months, any Debenture then payable shall remain out more than six months from the first publication of such notice, all interest on such Debentures after the expiration of the said six months shall cease, and be no further payable in respect of the time which may elapse between the expiration of the said six months and their presentment for payment.

Interest on Debentures outstanding when to cease.

VIII. *And be it further enacted by the authority aforesaid,* That the Honorable Thomas Clark, the Honorable John Hamilton, Philip Van Koughnett, Jonas Jones, Hiram Norton, George Langley, and Peter Shaver, Esquires, shall be Commissioners, (who may appoint a President and one or more acting Commissioner or Commissioners from among themselves,) whose duty it shall be to cause a survey or surveys, and a plan or plans of improvements to be made in the Navigation of the Saint Lawrence, between Prescott and the eastern extremity of this Province, by Canals, Locks, or otherwise, with estimates of the expense of such improvements, and who shall or may contract with such person or persons as shall undertake the said improvements, and all works therewith connected, or any part thereof, and who shall do and perform all and

Commissioners appointed.  
President to be named.  
Duty of Commissioners to Survey St. Lawrence between Prescott and eastern boundary of the Province;  
To prepare Estimates of the expense of improvements;  
To make contracts;

To fix Tolls on any finished part of improvements;

To make report of their proceedings.

whatsoever act and acts, thing and things necessary and proper to carry the intention of this act into full effect; and shall and may from time to time, after the completion of any part of the said improvements, fix such rates and tolls as to them may seem just, and shall report to the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the information of the Legislature, on or before the first day of November in each and every year, all matters by them done or performed by virtue of this Act, with an account in detail of all monies by them received and paid under the provisions thereof.

Governor to appoint Commissioners in case of vacancies.

IX. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province for the time being, to nominate and appoint under his hand and seal, such person or persons as he shall think fit to fill any vacancy or vacancies which from time to time shall or may happen in the said Board of Commissioners, by death, resignation or otherwise.

Commissioners to appoint Engineers and other Officers and Servants necessary for carrying on the work:

to fix Salaries and take Security for the discharge of duty.

X. *And be it further enacted by the authority aforesaid,* That the said Commissioners may from time to time appoint such Engineers, Agents, Officers, Workmen, and Servants, as they may think fit, and pay them such salaries as they may deem just and reasonable to carry into effect the provisions of this Act, taking when necessary, good security for the faithful discharge of the trust imposed.

Commissioners to have no interest in contracts.

XI. *And be it further enacted by the authority aforesaid,* That no Commissioner or Secretary appointed under the provisions of this Act, shall be directly or indirectly concerned, engaged or interested in any contract or agreement, for the performance of any work which may be necessary under the authority of this Act.

Commissioners to explore the country along the line of intended improvements, and to take and hold the line and boundary of Canal, with the necessary ground for Basins, &c.

XII. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall have full power and authority to explore the country lying between Prescott and the eastern extremity of this Province, and to designate and establish, take, appropriate, have and hold, to and for the use of this Province, the line and boundary of a Canal, with its necessary Locks, Towing Paths, Basins, and all other necessary erections; and it shall and may be lawful for the said Commissioners to contract with such person or persons as they may think necessary, to do, perform, and undertake all and whatsoever act or thing, work or works which may be thought necessary to carry the intention of this Act into full effect.

XIII. *And be it further enacted by the authority aforesaid,* That the said Commissioners are hereby authorised and empowered by themselves, their agents or workmen, contractors or servants, to enter into or upon the lands or grounds of or belonging to any person or persons, bodies politic or corporate, and to survey and to take levels of the same, or any part thereof, and set out, and ascertain such parts thereof as they shall think necessary and proper for making the said Canals, Locks, Reservoirs, Aqueducts, and Tunnels, and all such other improvements, matters and conveniencies as they shall think proper and necessary for making, effecting, preserving, improving, completing and using in the said navigation; and also, to bore, dig, cut, trench, remove, take, carry away, and lay earth, soil, clay, stone, rubbish, trees, roots of trees, beds of gravel or sand, or any other matter or thing which may be dug or got in the making the said Canals, Locks, Tunnels, Aqueducts or other improvements, or out of any lands or grounds of any person or persons adjoining or lying contiguous thereto, and which may be necessary for constructing or repairing the said Canals, or other the said works or improvements, or which may obstruct the constructing or maintaining the same; and also, to make, build, and erect and set up, in and upon the said Canal, or upon the land adjoining or near to the same, such and so many Bridges, Tunnels, Aqueducts, Sluices, Locks, Weirs, Pens for water, Tanks, Reservoirs, Drains, Wharves, Quays, Landing Places, and other works, ways, roads and conveniencies, as the said Commissioners shall think requisite and convenient for the purposes of the said navigation; and also, from time to time to alter the route of the said Canal, and to amend, repair, widen or enlarge the same, or any other of the conveniencies above mentioned, as well for carrying or removing goods, commodities, timber, and other things, to and from the said Canals, as for the carrying or conveying all manner of materials necessary for making, erecting, furnishing, altering, repairing, amending, widening or enlarging the works, of and belonging to the said navigation; and also, place, lay, work, and manufacture the said materials, on the ground near to the place or places where the said works, or any of them, are or shall be intended to be made, erected repaired, or done; and to build and construct the several Locks, Bridges, Works, and erections belonging thereto; and also to make, maintain, repair, and alter any Fences or Passages over, under, or through the said Canals or the Reservoirs and Tunnels, Aqueducts, Passages, and Gutters, Water-courses and Sluices respectively, which shall communicate therewith; and also to make, set up, and appoint Towing Paths, for drawing Boats, Barges, Vessels, or Rafts passing in, through, along, or upon the said Canals, as the said Commissioners shall think convenient; and to construct, erect, and keep in repair any Piers, Arches, or other

Commissioners or workmen may enter upon ground of individuals and make surveys.

And set out what land shall be required for the use of the works.

General powers in taking and laying materials on private property.

Altering route and repairing works.

works in, upon, and across any Rivers or Brooks, for making, using, maintaining, and repairing the said Canals and the Towing Paths on the sides thereof, or along or under the bank of the River; and also, to construct, make, and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving, improving, completing, and using the said Canals in pursuance and within the meaning of this act, they, the said Commissioners, doing as little damage as may be in the execution of the several powers to them hereby granted: *Provided always*, that the improvements by this Act authorized to be made shall be commenced and finished between the Head of the Long Sault and Cornwall, in the Eastern District, before any money be laid out in the purchase of any Lands or making improvements on any other part of the River Saint Lawrence, hereby intended to be explored.

Navigation between the head of the Long Sault and Cornwall to be first completed.

Commissioners to agree with the owners of Land for the purchase of what may be required, and for damages done in the progress of the works.

XIV. *And be it further enacted by the authority aforesaid*, That after any Land or Ground shall be set out and ascertained to be necessary for making and completing the said Canals, and other purposes and conveniences hereinbefore mentioned, the said Commissioners be hereby empowered to contract, compound, compromise, and agree with all bodies politic, communities, corporations, aggregate or sole guardians, and all other person or persons for themselves or as Trustees, not only for and on behalf of themselves, their heirs and successors, but also for and in behalf of those whom they represent, whether infants, lunatics, idiots, femme coverts, or other person or persons who shall occupy, be possessed of, or interested in any Lands or Grounds which shall be set out or ascertained as aforesaid, for the absolute surrender of so much of the said Land as shall be required, or for the damages which he, she, or they may be entitled to receive from the said Commissioners in consequence of the said intended Canals, Locks, Towing-paths, Rail Ways, or other constructions and erections being cut and constructed in or upon his, her, or their respective Lands; and that all such contracts, agreements, and surrenders, shall be valid and effectual in Law to all intents and purposes whatsoever, any Law, Statute, or Usage to the contrary notwithstanding.

When no agreements have been made, Arbitrators to be appointed to settle claims.

XV. *And be it further enacted by the authority aforesaid*, That if before the completion of the Canals through the Lands of any person or persons no voluntary agreement shall have been made as to the amount of compensation to be paid for damages, according to this Act, the Commissioners superintending the said work, shall at any time after the completion of such portion of the Canal, upon the notice or request in writing of the proprietor of such Lands, or his agent legally authorized, appoint one of their number as an Arbitrator, who, at the day to be named in such notice, shall attend upon the premises in question to meet

the Arbitrator to be appointed by such claimant, and such two Arbitrators shall and may before proceeding to consider the claim, appoint a third Arbitrator; which three Arbitrators shall first make an oath or affirmation before some one of His Majesty's Justices of the Peace, then there present (which oath or affirmation the said Justices of the Peace are hereby authorized to administer) to give a just and true award upon the claim submitted to them; and shall upon the statements of the parties and owner of the premises, and upon the testimony of witnesses to be examined upon oath or affirmation, (if either party shall require it,) which oath or affirmation any one of the said Arbitrators is hereby authorized to administer, make their award in writing under their hands of the amount of damages to be paid to such claimant.

XVI. *And be it further enacted by the authority aforesaid,* That if either of the Commissioners superintending the said works, or the party claiming damages as aforesaid, shall decline to abide by any such award, such refusal shall be declared in writing within ten days after such award, and damages upon such claim shall be thereafter assessed in manner following, but at the sole expence of the party refusing to abide by such award.

Parties declining to abide by award, may have damages assessed by a Jury at their own expence.

XVII. *And be it further enacted by the authority aforesaid,* That in all cases in which awards shall be made, to which either party shall refuse to conform as aforesaid, it shall and may be lawful for the party dissenting from such award to serve on the other party a notice in writing, appointing a day, not less than thirty days from the time of serving such notice, for having the damages for which he is entitled to claim compensation according to this Act assessed in the manner hereinafter provided; and that the party giving such notice, shall also specify some day therein, which shall be at least six days before the day appointed for such assessment; and not less than ten days from the time of serving such notice, at which he will attend at the office of the Sheriff of the District in which the Lands lie, for the purpose of striking a Jury to assess the damages so claimed as aforesaid.

Mode of proceeding when award dissented from.

XVIII. *And be it further enacted by the authority aforesaid,* That on the day so appointed as last aforesaid, the Parties, their Attornies, or Agents, shall attend at the Sheriff's Office, and that the Sheriff shall, at the hour of one of the clock in the afternoon proceed in the presence of the Parties, or such of them, their Attornies, or Agents, as may be present, to select the names of forty-one persons from among those qualified to serve on Special Juries, and in the manner directed by Law for selecting Special Juries; and that the names of such forty-one persons so

Mode of striking Jury.

drawn, being fairly written out by such Sheriff, each Party, or his Attorney, or Agent attending for that purpose shall alternately strike off one; that party beginning at whose instance such Jury is struck, until the whole number is reduced to seven; and that such seven persons shall be a Jury for assessing damages to be paid to such Claimant as aforesaid: *Provided always*, That in case either party shall omit to attend Personally, or by Agent at the time appointed, the Sheriff or Deputy shall strike in behalf of such party not attending.

Jury to attend upon the Premises in question, and assess damages.

Juryman's Oath.

XIX. *And be it further enacted by the authority aforesaid*, That the seven persons so struck to serve as aforesaid, shall be summoned by the Sheriff to attend upon the premises in respect to which the damages are claimed as aforesaid, giving not less than six days notice of such attendance; and that the Sheriff or his Deputy shall also attend at the time so appointed, and shall administer to the five persons who shall first answer upon being called in the order in which they shall stand upon the original list, the oath following, that is to say: "I, A. B. do swear that I will well and truly assess the damages upon the claim of C. D. according to the Act in that behalf;" and thereupon the said Jury, having viewed the Premises and received the testimony upon oath or affirmation of such witnesses as shall be brought before them, which oath or affirmation the said Sheriff or his Deputy is hereby authorized to administer, shall deliver their verdict by the opinion of the majority of such Jury of the amount of damages to be paid to such Claimant.

Expenses of Jury, what and how paid.

XX. *And be it further enacted by the authority aforesaid*, That the party desiring such Jury to be summoned, shall pay to the Sheriff for summoning the same, six pence per mile for the whole distance he shall be compelled to travel in order to summon such Jury; and the like sum of six pence per mile for the distance he shall travel to attend and take the verdict; and for taking the verdict the sum of twenty-five shillings; and to each Juryman attending in pursuance of such summons, the sum of ten shillings for every day he shall be necessarily absent from his place of residence.

Advantages of any improvements to be considered in estimating damages.

XXI. *And be it further enacted by the authority aforesaid*, That in estimating the claim of any person or persons to compensation for property taken, or for damages done under the authority of this Act, the Arbitrators or Jury assessing such damages, shall take into their consideration the benefit which will probably accrue to such person or persons from the construction of the said Canal, by its enhancing the value of his property or producing other advantages: *Provided always nevertheless*, That it shall not be competent to any Arbitrators or Jury to di-



rect any person or persons claiming as aforesaid, to pay a sum in consideration of such advantages over and above the amount at which the damages of such persons shall be estimated.

XXII. *And be it further enacted by the authority aforesaid,* That any award or awards to be made under the provisions of this Act, shall and may be made a rule or order of His Majesty's Court of King's Bench in this Province, which Court shall have full power and authority to make such order, touching the performance of such award as shall to such Court seem just.

Award may be made a rule of Court.

XXIII. *And whereas,* it may hereafter happen from floods, or from some unexpected accident, that Weirs, Flood-gates, Dams, Banks, Reservoirs, Trenches, or other Works of the said navigation may be damaged or destroyed, and the adjacent Lands, or the property thereon thereby damaged, and that it may be necessary that the same should be immediately repaired or rebuilt, to prevent further damages: *be it therefore enacted by the authority aforesaid,* That when and so often as any such case may happen, it shall be lawful for the said Commissioners from time to time, or for their agents or workmen without any delay or interruption from any person or persons whomsoever, to enter into any Lands, Grounds, or Hereditaments adjoining or near to the said Canal or Canals, Branches, Reservoirs, or Trenches, or any of them, not being an Orchard, Garden, or Yard, and to dig for, work, get, and carry away, and use all such Stones, Gravel, and other materials as may be necessary and proper for the purposes aforesaid, without any previous treaty whatsoever with the owner or owners, occupier or occupiers of, or other person or persons interested in such Lands, Grounds, or Hereditaments, or any of them, doing as little damage thereby as the nature of the case will admit of, and making recompense for such damages to the owners and occupiers of, or other persons interested in such Lands, Grounds, Property, or Hereditaments within the space of six calendar months next after the same shall have been demanded; for all damages which shall or may be done by means of such accident, and by means of the digging for, getting, working, taking, carrying away, and using such Stones, Gravel, and materials, or any of them, which damages, and the satisfaction and recompense in respect thereof, shall be settled, adjusted, ascertained, and determined by the ways and means hereinbefore described, with respect to other damage done by the making and completing the said navigation.

Materials may be taken from any adjacent Lands for the reparation of any unexpected damages to the works.

Recompense to occupiers, when and how determined and liquidated.

XXIV. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall and may in such parts of the said navigation as shall not be of sufficient breadth for admitting a Boat, Vessel, or Raft

Spaces to be left in banks of Canal for Boats to pass each other.

to turn about or lie, or for two Boats or other Vessels or Rafts to pass each other, to open or cut proper spaces or places in the Lands adjoining to the said Canals at convenient distances from each other, for the turning, lying, and passing of any such Boats, Vessels, or Rafts; and that the said Boats, Vessels, or Rafts being hauled or navigated upon the said Canal, shall upon meeting any other Boat or Vessel, stop at, or go back to and lie in the said spaces or places, in such manner as the said Commissioners under their hands shall direct and appoint.

Improvement to admit of vessels drawing nine feet water.

XXV. *And be it further enacted by the authority aforesaid,* That the improvement hereby authorized to be made between the head of the Longue Sault Rapids and Cornwall, shall be constructed so as to admit of the passage or navigation by Vessels drawing nine feet water; and that all Locks, which may be erected or constructed in the course of such improvement, shall be not less than one hundred and fifty feet in length, fifty-five feet in breadth, and with Nine Feet water above the Mitre Sill.

Commissioners may let water privileges.

XXVI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said Commissioners to grant or to lease, for any time not exceeding twenty-one years, by an instrument under their hands and seals, the use of any water which they may permit to be taken and drawn from the said Canal or Canals for hydraulic purposes, giving to the owners of the Lands through which such Canal or Canals shall pass, the option of using such water at the price fixed by the said Commissioners, paying the proceeds of such Sale or Lease into the hands of the said Receiver General, in the same manner as is provided respecting the Tolls or Dues arising from the use of such Canals; which said sums shall be applied in the same manner as the said Tolls and Dues are hereinafter directed to be applied.

Commissioners to fix the rates and dues to be taken, and to alter the same as they shall see occasion.

XXVII. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall, at their first General Meeting, held after any of the said Canals shall be finished, ascertain and fix the Rates and Dues to be taken by virtue of this Act; and that it shall and may be lawful for the said Commissioners to alter the said Rates and Dues at any subsequent meeting, after giving two months notice of their intention so to do, and that a Schedule of Rates and Dues shall be affixed on the different public places on the route of the said navigation.

Schedule of rates and dues to be affixed on public plans on the route of the Canal.

Rates to whom to be paid and manner of enforcing payment.

XXVIII. *And be it further enacted by the authority aforesaid,* That the said several dues shall be paid to such person or persons, at such place or places near to the said Canals, in such manner and under such regulations as the said Commissioners shall direct or appoint; and in

case of denial or neglect of payment of any such Rates or Dues, or any part thereof, on demand to the person or persons appointed to receive the same as aforesaid, the said Commissioners may sue for and recover the same in any Court having jurisdiction thereof, or the person or persons to whom the said Rates or Dues ought to be paid, may, and he is, and they are hereby authorized and empowered to seize and detain such Boat, Vessel, Barge, or Raft, for or in respect whereof such Rates and Dues ought to be paid, and detain the same until payment thereof.

XXIX. *And be it further enacted by the authority aforesaid;* That an account of all Dues and Tolls received by the Commissioners under the authority of this act, shall be rendered to the Inspector General of the Province on the thirtieth day of June, and the thirty-first day of December in each year, and the amount thereof, deducting any necessary expenditure on account of the said Canal, shall within ten days thereafter be transmitted to His Majesty's Receiver General of this Province, to be applied towards the payment of the Principal and Interest of any loan contracted in pursuance of this Act, and after the Interest and the whole of the Principal sum loaned under the provisions of this Act shall be paid and discharged, the proceeds of the said dues and tolls after deducting the expenses of the collection thereof, and defraying the necessary expenses of repairs, shall be subject to the disposal of the Legislature of this Province.

Account of Tolls to be rendered half yearly to Inspector General, on 30th June and 31st December.

Tolls to be paid into the hands of the Receiver General, to be applied to the liquidation of the principal and interest of the debt contracted under the authority of this Act.

XXX. And to prevent disputes touching the Tonnage of any Boat, Barge or other Vessel navigating upon the said Canals, *be it further enacted by the authority aforesaid,* That the Owner or Master of every such Boat, Barge or Vessel, shall permit and suffer every such Boat, Barge or Vessel, to be gauged or measured; and refusing so to permit and suffer, shall forfeit and pay the sum of Forty Shillings; and it shall be lawful for the Commissioners, or their Agent or Agents, or such other person or persons as shall be appointed by them for that purpose, to proceed with such Owner or Master, or such other person or persons as shall be chosen or appointed by such Owner or Master, to measure and ascertain such Tonnage, and to mark the same on such Boat, Barge or other Vessel, which mark shall always be evidence of the Tonnage in all questions respecting the payment of the aforesaid Rates or Dues; and if such Master or Owner shall refuse or decline to choose a person on his behalf as aforesaid, then the person appointed by the Commissioners, or their Agent or Agents, shall alone have the power of ascertaining such Tonnage.

Manner of ascertaining tonnage of vessels.

Commissioners to  
construct Bridges  
where Highways are  
intersected by Canal.

XXXI. *And be it further enacted by the authority aforesaid,* That when it shall be necessary to cut into any High-way in order to conduct any of the said Canal or Canals through the same, the said Commissioners shall cause to be constructed within one month, a secure, sufficient, and commodious Bridge for the passing of Carriages, in order to re-establish the communication between the several parts of such High-ways.

Penalty for wilfully  
damaging the works.

XXXII. *And be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully or maliciously break down, damage, or destroy any Bank, Lock, Gate, Sluice, or any Works, Machine, or Device to be erected or made by virtue of this Act, or do any other wilful act, hurt or mischief, to disturb, hinder or prevent, the carrying into execution or completing, supporting or maintaining the said Canal or Canals, improvement or improvements, every such person or persons so offending shall be deemed guilty of a misdemeanor.

Penalty for throwing  
rubbish into the Canal  
or Locks.

XXXIII. *And be it further enacted by the authority aforesaid,* That if any person shall throw any Ballast, Gravel, Stones or Rubbish, into any part of such Canals or Locks, every such person shall, for every such offence, forfeit a sum not exceeding five pounds Currency.

Penalty for obstruct-  
ing navigation with  
vessels and not re-  
moving the same  
when required.

XXXIV. *And be it further enacted by the authority aforesaid,* That if any Boat, Vessel, Timber, or Raft, shall be placed in any part of the said Canal or Canals, so as to obstruct the navigation thereof, and the person having the care of such Boat, Vessel, Timber, or Raft, shall not immediately upon the request of any of the persons employed by the said Commissioners, made for that purpose remove the same, he shall for every such offence forfeit a penalty of ten shillings for every hour such obstruction shall continue; and it shall be lawful for the Agents, Toll-gatherers, or others employed by the said Commissioners, to cause any such Boat, Vessel, Timber or Raft, to be unloaded if necessary, and to be removed in such manner as shall be proper for preventing such obstruction in the navigation, and to seize and detain such Boat, Vessel, Timber, or Raft, and the loading thereof, or any part of such loading until the charges occasioned by such unloading or removal shall be paid; and if any Boat or Vessel shall be sunk in the said Canal or Canals, and the owner or owners, or person or persons having the care of such Boat or Vessel, shall not without loss of time weigh or draw up the same, it shall and may be lawful for the Agents, Toll-gatherers, or persons employed by the said Commissioners, to cause such Boat or Vessel to be weighed or drawn up, and to detain and keep the same until payment be made of all expences necessarily occasioned thereby.

XXXV. *And be it further enacted by the authority aforesaid,* That Owners of Land adjoining Canal may pass along the same for purposes of husbandry, it shall and may be lawful to and for the owners or occupiers of any Land adjoining to the said Canals, to use any boats thereon for the purposes of husbandry, or for conveying cattle from one farm, or part of a farm or lands, to another farm or lands of the same owner or occupier, not passing through any Lock without the consent of the said Commissioners, or their principal Agent for the time being, without interruption from the said Commissioners, and without paying any rate or duty for the same, so as the same be not made use of for the carriage of any goods, wares or merchandize to market, or for sale, or for any person or persons for hire; and shall not obstruct or prejudice the navigation of the said Canal or Canals, or the Towing-Paths thereof. excepting through the Locks free, of Toll.

XXXVI. *And be it further enacted by the authority aforesaid,* That all persons whatsoever shall have liberty to use with horses, cattle and carriages, the Roads and Ways to be made as aforesaid, except the Towing-Paths, for the purpose of conveying any goods, wares, merchandize, timber, and commodities whatsoever, to and from the said Canals; and also to navigate on the said Canals with any Boats, Barges, Vessels or Rafts, and to use the Wharves and Quays appertaining to the same, for loading and unloading any goods, wares, merchandize, lumber and commodities; and also to use the said Towing-Paths with horses for drawing and hauling such Boats and Vessels, upon payment of such rates and dues as shall be established by the said Commissioners. All persons may use the towing paths for the purpose of coming to the Canal or works, and navigate the same on payment of the Tolls fixed by the Commissioners.

XXXVII. *And be it further enacted by the authority aforesaid,* That all penalties and forfeitures for offences against this Act, or against any rule, order or by-law of the said Commissioners, to be made in pursuance hereof, shall, upon proof of the offences respectively before any two Justices of the Peace for the Johnstown or Eastern Districts, either by confession of the party or parties, or by the oath of one credible witness, be levied by distress and sale of the Goods and Chattels of the parties offending, by Warrant under the hand and seal of such Justices, and the overplus, after such penalties and forfeitures, and the charges of such distress and sale are deducted, shall be returned, upon demand, to the owner or owners of such Goods and Chattels; and in case such sufficient distress cannot be found, or such penalties and forfeitures shall not be forthwith paid, it shall be lawful for such Justices, by Warrant under their hands and seals, to cause such offender or offenders to be committed to the common Gaol of either of the said Districts, there to remain without bail or mainprise, for such time as such Justices may Penalties how recovered.

direct, not exceeding twenty days, unless such penalties and forfeitures, and all reasonable charges attending the same, shall be sooner paid and satisfied.

Penalties when recovered how appropriated

XXXVIII. *And be it further enacted by the authority aforesaid,* That all penalties and forfeitures for offences against this Act, or against any rule, order or by-law of the Commissioners to be made in pursuance thereof, when levied and satisfied in manner aforesaid, shall be paid to the said Commissioners, to be by them with other monies transmitted to His Majesty's Receiver General of this Province, to be accounted for to His Majesty through the Lords Commissioners of His Majesty's Treasury, in such manner as His Majesty shall be pleased to direct.

All suits for any thing done under this Act to be commenced within six months.

XXXIX. *And be it further enacted by the authority aforesaid,* That if any Plaintiff shall be brought or commenced against any person or persons for any thing done, or to be done in pursuance of this Act, or in execution of the powers and authorities, or the orders and directions hereinbefore given or granted, every such suit shall be brought or commenced within six calendar months next after the fact committed; or in case there shall be a continuation of damages, then within six calendar months after the doing or committing such damages, shall cease, and not afterwards; and the Defendant or Defendants in such Action or Suit may plead the general issue, and give this Act, and the special matter in evidence at any trial to be had thereon, and that the same was done in pursuance and by authority of this Act; and if it shall appear to be done so, or if any Action or Suit shall be brought after the time hereinbefore limited for bringing the same, then a verdict shall be given for the Defendant.

General issue may be pleaded.

Construction of term "Commissioners."

XL. *And be it further enacted by the authority aforesaid,* That whenever the Commissioners appointed under this Act shall be named therein, it shall be taken and construed to mean the majority of the said Commissioners, and that the said Commissioners shall have power to make and subscribe such Rules and Regulations as to them shall appear needful and proper touching the management and disposition of the Monies coming into their hands, and touching the duty and conduct of the Officers, Clerks and Servants employed by them, and all such other matters as appertain to the conduct of the said Commissioners in carrying into effect the Provisions of this Act.

Commissioners may make rules and by-laws.

Acting Commissioner to be appointed.

XLI. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall have power and authority to appoint one of their own number, or some other person, to act in all matters relating to

the management and control of the Works to be carried on under their orders and directions, subject to such restrictions as the said Commissioners or a majority of them shall think proper and expedient to impose, and the said Commissioners shall meet at least once in each month for the purposes of inspecting and investigating all matters relating to the said Works, at such place as a majority of them shall appoint, and shall have power, at such meetings, to allow to the person appointed by them as aforesaid for his services, out of the Monies which shall come into their hands under the provisions of this Act, such sum as they may consider proper, not exceeding three hundred Pounds per annum, and to each of the said Commissioners the sum of twenty Shillings for each days actual attendance in and about the affairs of the said Improvements to be carried on under this Act.

Commissioners to meet once a month.

Acting Commissioner to receive compensation not exceeding £300 per annum.

Each Commissioner entitled to 20s. per diem when actually employed.

*XLII. And be it further enacted by the authority aforesaid, That the said Commissioners shall hold their first meeting at such time and place as the majority of the said Commissioners may name and appoint.*

First meeting when to be held.

*XLIII. And be it further enacted by the authority aforesaid, That all Monies which shall be raised by Debenture under the provisions of this Act shall be paid by the Receiver General of this Province in discharge of such Warrant or Warrants as may from time to time be issued by the Governor, Lieutenant Governor, or Person Administering the Government of this Province for the time being, in favour of such Commissioners; and shall be accounted for through the Lords Commissioners of His Majesty's Treasury in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.*

Monies raised under this Act, how to be paid and accounted for.

## CHAP. XIX.

*AN ACT to Incorporate a Company under the style and title of the British America Fire and Life Assurance Company.*

[Passed 13th Feb. 1833.]

**WHEREAS** William Maxwell, James Meyers, John G. Culverwell, David Browne, Richard Northcote, Richard Crispin, William Ware, Alexander Dixon, Thomas Wallis, Richard H. Oates, William Stennett, Alexander Erskine, George Monro, William Proudfoot, James King, Alexander Wood, John Strachan, Thomas Mercer Jones, James Cull,

Preamble.