

XVI. *And be it further enacted by the authority aforesaid,* That the said Commissioners are hereby authorized 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 take, carry away, and lay all such Timbers, Stone and other materials, out of or upon any Lands or Grounds of any person or persons adjoining or lying contiguous thereto, and which may be necessary for constructing and keeping in repair the said Navigation, and the Roads or approaches thereto; and also to place, lay, work and manufacture the said materials on the grounds near to the place or places where the said Works or any of them are or shall be intended to be made or erected, repaired or done; and also to make, maintain, repair and alter any fences or passages which shall communicate therewith; and also to construct, make and do, all other matters and things which they shall think necessary and convenient for the making, preserving, completing, and repairing the said Navigation and approaches in pursuance and within the true 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.

General powers of Commissioners in the progress and performance of the works placed under their management.

## CHAP. XXXIV.

*AN ACT to provide for the erection of a Bridge across the River Trent, and for other purposes therein mentioned.*

[Passed 13th February, 1833.]

**MOST GRACIOUS SOVEREIGN :**

**WHEREAS** it is expedient to erect a Bridge across the River Trent, in the Township of Murray, at or as near to the mouth of the said River as the convenience of the public and the security of such Bridge may admit; *and whereas* it is necessary to provide a sum of Money to defray the expense of erecting and keeping the same in repair, and also to provide for the expenses incurred by His Excellency the Lieutenant Governor in procuring certain Plans and Surveys in pursuance of an Address of the House of Assembly during the last Session: May it therefore please Your Majesty that it may be enacted, *And be it 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,

Preamble.

Commissioners appointed to carry the objects of this Act into effect.

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 Reuben White, James G. Bethune, and Robert C. Wilkins, Esquires, be Commissioners, whose duty it shall be to cause a Survey or Surveys to be made, and to determine the most fit and proper situation for a Bridge across the mouth of the said River Trent, to procure Plans and Estimates thereof, and to Contract with such person or persons as shall undertake to erect the same, and the works and approaches therewith connected, or any part thereof, and who shall do and perform all and 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 such Bridge and the approaches thereto, 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 annually 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.

£4,050 may be raised by way of loan.

II. *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, 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 Loan from any person or persons, Bodies Politic or Corporate, 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 Four Thousand and Fifty Pounds, at a rate of Interest not exceeding Six per Cent. per annum, payable half yearly in this Province.

Debentures therefor to be issued by Receiver General.

III *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Receiver General to cause 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 four thousand and fifty 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 several 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.

IV. *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 Debentures 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 cases of Felony.

Penalty for counterfeiting Debentures.

V. *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 outstanding 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.

Account of the Debentures issued to be laid before the Legislature.

VI. *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

Interest when and how made payable.

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 endorsed on each Debenture at the time of 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.

Warrants to be issued  
for payment of  
Debentures.

VII. *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 favour 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 when and  
how to be called in.

VIII. *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.

Vacancies in the  
Board of Commis-  
sioners to be filled up  
by the Lieutenant  
Governor.

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.

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 reposed.

Commissioners may appoint Officers.

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.

Neither Commissioners nor Secretary to be concerned in Contracts.

XII. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall have full power and authority to examine and survey such parts of the Townships of Murray and Sidney as may be necessary for the purposes of this Act, and to designate and establish, take, appropriate, have and hold, to and for the use of this Province, the said Bridge and all other necessary erections, and to contract with any person or persons to undertake, do, and perform all and every act or thing, work or works, which may be thought necessary to carry the intention of this Act into full effect.

General powers of Commissioners.

XIII. *And be it further enacted by the authority aforesaid,* That the said Commissioners are hereby authorized 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 the same or any part thereof, and set out and ascertain such parts thereof as they shall think necessary and proper for making Roads or approaches to such Bridge in connection with the Highway through this Province; to take, carry away and lay, all such timber, stone, and other materials, out of or upon any lands or grounds of any person or persons adjoining or lying contiguous thereto, and which may be necessary for constructing and keeping in repair the said Bridge and the Roads or approaches thereto; and also to place, lay, work, and manufacture the said materials on the grounds 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 also to make, maintain, repair and alter, any fences or passages which shall communicate therewith; and also to construct, make, and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving, completing, using and repairing, the said Bridge and approaches in pursuance and within the true intent and meaning of

Further powers of Commissioners, as to taking possession of Land, and taking materials, &c.

this Act, they the said Commissioners doing as little damage as may be in the execution of the several powers to them hereby granted.

Commissioners may agree with parties interested, for lands taken or damages done.

XIV. *And be it further enacted by the authority aforesaid,* That after any lands or grounds shall be set out and ascertained to be necessary for making the said Roads and approaches 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, femmes covert, or other person or persons who shall occupy, be possessed of, or be interested in any grounds or lands which shall be set out or ascertained as aforesaid, for the absolute surrender of so much of the said land as shall be required; for the damages which he, she or they, may be entitled to receive from the said Commissioners in consequence of such roads and approaches and other constructions and erections being made or 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.

Disputes may be left to Arbitration.

XV. *And be it further enacted by the authority aforesaid,* That if 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 Works shall, at any time after the completion of such Bridge, together with the roads and approaches thereto, 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 a 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 statement of the parties and view 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.

Arbitrators selected may appointed a third.

Arbitrators to be sworn.

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 expense of the party refusing to abide by such award.

Party dissatisfied with award may have damages assessed by a Jury at his own expense.

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 manner hereinafter provided, and that the party giving such notice shall also specify some day therein, which shall be at least ten 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.

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 Sheriffs' 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 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 his Deputy shall strike in behalf of such party not attending.

Time and manner of striking Juries.

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

Jury to attend upon the premises in question, and Sheriff to administer the following

appointed, and shall administer to the Five persons who shall first answer upon being so called in the order in which they shall stand upon the original list the Oath following, that is to say :—

Oath.

“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.

Fees to Sheriff and Juryman.

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.

In ascertaining damages, the benefit conferred by the erection of the bridge to be considered.

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 shall probably accrue to such person or persons from the constructing and erecting of the said Bridge 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 direct 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.

Awards to be made rules of Court.

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.



XXIII. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall at their first general meeting held after the said Bridge together with the approaches thereto shall be completed, 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 Gate of the said Bridge.

Commissioners to fix Tolls.  
Rates of Toll to be affixed on the gate of the Bridge.

XXIV. *And be it further enacted by the authority aforesaid,* That the said several Tolls or Dues shall be paid to such person or persons, and 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 Tolls 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.

Manner of collecting Tolls.

XXV. *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, gate, 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 Bridge, every such person or persons so offending shall be deemed guilty of a misdemeanor.

Penalty for damaging works.

XXVI. *And be it further enacted by the authority aforesaid,* That all persons whatsoever shall have liberty to use with horses, cattle and carriages, the bridge, roads and approaches to be made as aforesaid, upon payment of such tolls and dues as shall be established by the said Commissioners.

All persons may pass over the bridge on payment of toll.

XXVII. *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 thereof, shall, upon proof of the offences respectively before any two Justices of the Peace for the Newcastle or Midland Districts, either by the 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 charge of such sale are deducted, shall be returned, on demand, to the owner or owners of such goods and chattles ; and in case such sufficient distress

Penalties how recovered.

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 mainprize for such time as such Justices may 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 levied  
how to be applied.

XXVIII. *And be it further enacted by the authority aforesaid,* That all penalties and forfeitures for offences against this Act, or against any rule, or order, or by-law of the Commissioners to be made in pursuance thereof, when levied or 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 Actions to be  
brought within six  
months for any thing  
done under this Act.

XXIX. *And be it further enacted by the authority aforesaid,* That if any plaint 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.

Commissioners to be  
construed to mean  
the majority thereof.

Commissioners may  
make rules and  
regulations.

XXX. *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.

XXXI. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall out of the monies to be raised or granted under the provisions of this Act, pay to the person or persons employed by His Excellency the Lieutenant Governor in pursuance of the address of the House of Assembly of this Province during its last Session, the sum of Fifty Pounds. £50 to be paid to the person who made the Survey.

XXXII. *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 and may 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. An acting Commissioner to be appointed.

XXXIII. *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 of Commissioners when and where to be appointed.

XXXIV. *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 favor of the said 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 how to be paid and accounted for.