

CHAP. LXXIX.

AN ACT to authorize the construction of a Macadamized Road, from Dundas to Waterloo, in the Gore District.

[Passed 4th March, 1837.]

Preamble.

WHEREAS the improvement of the Public Highways approaching the City of Toronto, under the authority of an Act of the Parliament of this Province, passed in the third year of the reign of His present Majesty, entitled, “An Act to raise a sum of money to improve certain roads in the vicinity of the Town of York, and for other purposes therein mentioned,” has fully realized the advantages anticipated, and given general satisfaction: *And whereas* it is desirable, that such improvement should be made on the public Highway leading from the termination of the Desjardins Canal, in the Village of Dundas, to the Township of Waterloo: *Be it therefore enacted*, by the King’s most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, 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 Receiver General of this Province, as soon after the passing of this Act as may be deemed expedient, to raise by way of loan, from any person or persons, Body Politic or Corporate, who may be willing to advance the same on the credit of the Tolls to be levied and collected on the Road hereby authorised to be improved, and the other Securities provided by this Act, and not paid or chargeable against the general Revenue of this Province, any sum or sums of money, not exceeding in the whole Twenty-five Thousand Pounds, which said sum of Twenty-five Thousand Pounds, shall be appropriated and applied as follows, that is to say: to make a Macadamized Road from the Desjardin’s Canal, in the Village of Dundas, to the Township of Waterloo; and also a branch of said Road, from where the Galt Road intersects it in crossing the Bridge at Galt, to the Township line of Waterloo.

£25,000 authorized
to be loaned.

Receiver General to
issue Debentures, &c.

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 or direct any number of Debentures to be made out, for such sum or sums

of money, not exceeding Twenty-five Thousand Pounds, as any person or persons, Bodies Corporate or Politic, shall agree to advance on the credit of the Tolls and other Securities provided by this Act; 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 shall be signed by the Receiver General, for the time being.

III. *And be it further enacted by the authority aforesaid,* That the Tolls shall be applied solely, in payment of the interest and principal of such Debentures, and for no other purpose whatever, until the full amount of Twenty-five Thousand Pounds, with the interest thereon, be fully paid. Tolls to be applied in payment of interest on loan, &c.

IV. *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 pay such sum and sums of money, out of the said Loan so to be raised on the said Debentures, as the Trustees for the said Road may require, for such parts of the work as may be from time to time completed, or for such materials as may be from time to time furnished, on such Trustees certifying that such sum or sums is or are necessary, to enable them to proceed with such portion or portions of the work as are in a course of being finished, or for such materials furnished and delivered, not exceeding in the whole the sum of Twenty-five Thousand Pounds. Receiver General to advance money to Trustees, &c.

V. *And be it further enacted by the authority aforesaid,* That the Interest due upon the said Loan or Debentures, shall and may be payable in half-yearly periods, to be computed from the date thereof, out of the funds hereafter provided, and shall and may be paid 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 respectively, and that the Receiver General of the Province, shall pay the Interest on the said Loan or Debentures half-yearly, as the same becomes due, out of the funds provided by this Act. Interest to be paid half-yearly, &c.

VI. *And be it further enacted by the authority aforesaid,* That if any person 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 Punishment for forgery of Debentures, &c.

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 said Debentures, 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.

Receiver General may call in Debentures due, &c.

VII. *And be it further enacted by the authority aforesaid,* That at any time after the said Debentures or Loan, or any part thereof respectively, becomes due, according to the terms thereof, it shall and may be lawful for the Receiver General 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.

Power and authority of Trustees, &c.

VIII. *And be it further enacted by the authority aforesaid,* That the Trustees of the said Road hereinafter mentioned, shall have full power and authority, to cause the necessary Surveys and Estimates to be made thereon, preparatory to the commencement of the said improvement, and by public tender or otherwise, as they shall deem most advantageous, to contract for the construction and completion of any part of the said Road, or for the supply of any materials therefor, for the due performance of all which contracts the said Trustees shall demand and take such good and sufficient security, as they shall deem reasonable in each case.

Duties and authority of Trustees in constructing and repairing roads, &c.

IX. *And be it further enacted by the authority aforesaid,* That the said Trustees shall, and they are hereby authorised, to cause the said Highway or Road, and Bridges on the said Road, to be amended, widened and repaired, in such manner as they shall think proper, and to settle the direction of the said Road, or change or alter, or shorten, or make it more accessible; and to make, or cause to be made, Causeways; and to cut or make Drains, Ditches or Trenches, through any grounds lying contiguous to the said Roads; to make passage for the Water, when it may be found necessary, from such Ditches or Trenches, through the lands or premises of any adjacent proprietor; and also, to keep clear such Drains, Ditches, Passages and Outlets, and the workmen authorised by them may go upon

the said lands for that purpose : *Provided always*, that reasonable satisfaction be made to the owner or occupier of such lands or premises, for the damages to be done thereby ; and if the said owner or occupier shall not be satisfied with the allowance offered, the same shall be decided by a Jury of the District of Gore, at the Court of Quarter Sessions, to be empannelled and sworn for that purpose, at the request of the party aggrieved ; and if such verdict shall not exceed the amount offered, the owner of the land shall pay the costs of the Court on the assessment of such damages ; and in case the verdict of the said Jury shall exceed the offer made by the said Commissioners, then the costs of such trial and assessment shall be paid by the said Commissioners, out of any monies in their hands for the purposes of the said Road.

Manner of making reparation to owners of lands, and for damages done, &c.

X. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, all persons living within half a mile on either side of the said Road, and who are, by the existing laws of the Province, liable to perform Statute Labour, shall, and they are hereby required, to commute the same, and pay the amount in money, at the rate of two shillings and sixpence per day, for every day for which they are assessed.

Commutation of statute labour required.

XI. *And be it further enacted by the authority aforesaid*, That the Path-masters in the several Divisions on the said Roads, so to be Macadamized, as aforesaid, shall have full power and authority, and are hereby required, within their respective Divisions, to demand and receive the amount of commutation for Statute Labour, to be paid under this Act ; and in case any person or persons shall neglect or refuse to pay the same, for the space of fourteen days after it shall be so demanded, the Path-master of the Division shall proceed to collect it in the same manner, as he is authorised by Law, to collect other arrears and forfeitures, by virtue of his office as Path-master.

Path-masters to collect and receive commutation of statute labour.

XII. *And be it further enacted by the authority aforesaid*, That if any Path-master shall fail or neglect to collect and pay over the commutation money, as aforesaid, when required by the Trustees so to do, he shall be liable to the same penalty as is imposed for any other neglect or omission of his duty, by the Law in such case provided, to be levied and collected in the same manner.

Punishment of Path-master for neglect of duty.

XIII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Trustees of the said Road, as aforesaid, or for such persons as they shall appoint, to ask for and receive from the several Path-masters, the money so collected by them.

Path-masters to pay monies received for commutation of statute labour, to Trustees.

Application of money received for commutation of statute labour.

XIV. *And be it further enacted by the authority aforesaid,* That the amount raised by such commutation of Statute Labour, shall be expended and applied by the Trustees, as follows, that is to say : so much thereof as the said Trustees shall think just and necessary, on the Side Roads leading to the Road so to be Macadamized, as aforesaid, in any manner the Trustees may think advisable, and the remainder to go to the general fund for Macadamizing the Road to which such Side Roads lead, and keeping the same in repair.

Trustees to report to Lieutenant Governor.

XV. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Trustees of the said Road, and they are hereby required, to report at the close of every year, to the Lieutenant Governor, or Person Administering the Government, for the time being, for the information of the Legislature, the sum they have received and expended, together with the amount of Tolls received.

Power given to Trustees to make surveys, &c.

XVI. *And be it further enacted by the authority aforesaid,* That the Trustees of the said Road shall have power to cause the necessary Surveys to be made thereon, and also to have all such of the hills on the said Road reduced to the proper level, the Road drained, and all necessary Bridges or Culverts made, so soon after the passing of this Act, as they or a majority of them, may think advisable, and for the public good.

Names of Trustees.

XVII. *And be it further enacted by the authority aforesaid,* That the following persons shall be Trustees, with full power to carry into effect the purposes of this Act, viz.—Peter Bombarger, Dundas, Innkeeper; Andrew T. Kerby, Esquire, West Flamborough; Adam Ainslie, Esquire, Beverley; Thomas Rich, Carpenter, of Dumfries; James K. Andrews, Merchant, Galt; George Clemens, Waterloo, Yeoman; Adam Ferrie, Junior, Merchant, Preston, and John A. Cornwall, Beverley, who shall have power to erect such number of Gates on or across the said Road, as to them, or a majority of them, may appear requisite, and fix such Toll as may be found necessary and expedient to answer the purposes of this Act, which Rates or Tolls may be altered from time to time, as circumstances require: *Provided always,* that the Trustees acting under the authority of this Act, shall have power to make such equitable arrangement, with any person desiring or having occasion merely to cross any Macadamized Road mentioned in this Act, and without any intention to evade the Tolls, as to them may seem just and reasonable.

Power given them to erect Toll-gates, and fix rates and tolls, &c.

Part of 36th clause of Township Officers law, repealed.

XVIII. *And be it further enacted by the authority aforesaid,* That so much of the thirty-sixth clause of an Act passed in the fifth year of His Majesty King William the Fourth, entitled, “An Act to reduce to one

Act of Parliament the several Laws relative to the appointment and duties of Township Officers, in this Province, as relates to the wilful stopping up of any Highway or Road in any Township," be and the same is hereby repealed, so far as relates to the operations of this Act.

XIX. *And be it further enacted by the authority aforesaid,* That the Trustees for the said Road shall meet in the Village of Dundas, on the first Monday in April next, and elect one of their number to act as Chairman for the ensuing year, and all subsequent times and places of meeting, shall be in the discretion of a majority of the Trustees.

Time and place of meeting of Trustees.

XX. *And be it further enacted by the authority aforesaid,* That all Acts, Proceedings, Orders, matters and things, relative to the execution of the trusts in the said Trustees vested, may be done and executed by a majority of them, the Chairman being always one.

Majority of Trustees to decide questions.

XXI. *And be it further enacted by the authority aforesaid,* That all the money collected at the different Toll Gates on the said Road, shall be paid by the Collector to the Trustees aforesaid, when required by them, and that it shall be the duty of the said Trustees, to pay the same over to His Majesty's Receiver General, at least once in three months, to be by him applied to the payment of the Interest on the said Loans as it becomes due, and the overplus to be applied to the redemption of the Principal.

Application of monies received at Toll-gates, and to whom to be paid.

XXII. *And be it further enacted by the authority aforesaid,* That the Trustees are empowered and required, to levy such Tolls as may be necessary, to pay the Principal and Interest of the respective sums loaned for the purposes of this Act, within the term of thirty years.

Tolls to be sufficient to pay principal and interest of sum loaned in 30 years.

XXIII. *And be it further enacted by the authority aforesaid,* That in order to raise the sum necessary to meet any deficiency left by the Tolls, for the purposes of this Act, such deficiencies shall be raised, levied and collected, from the Inhabitants of the District of Gore, paying or liable to pay the ordinary Taxes now by Law imposed, which additional rate shall be paid in the same manner as other Taxes, by the Collectors of the several Townships in the said District, and paid by them to His Majesty's Receiver General, which said additional rate shall be rated, levied and collected, under and by virtue of any Order of the Magistrates in Quarter Sessions assembled, made in pursuance of any application of the Receiver General of this Province, for that purpose, upon its being made to appear to the satisfaction of the said Justices, that the Interest upon the

Deficiencies to be raised by Assessment on inhabitants of District of Gore.

said Loan cannot be otherwise paid and discharged, under the provisions of this Act.

If Tolls and other means are unequal to payment of interest, deficiency to be supplied from Provincial Treasury.

XXIV. *And be it further enacted by the authority aforesaid,* That if it shall at any time happen, that the Interest on the sum of money raised under the authority of this Act, shall be in arrear and unpaid, in consequence of the Tolls and other means hereinbefore provided for the payment thereof proving insufficient to meet the same, it shall and may be lawful for His Majesty's Receiver General, from and out of the monies in his hands, applicable to the public uses of this Province, to advance such sum as may be necessary to pay any balance in arrear on account of such interest, on receiving from the Governor, Lieutenant Governor, or Person Administering the Government of this Province, a Warrant for that purpose, which Warrant shall and may be issued at any time, upon application being made to the Lieutenant Governor, by the Trustees for that purpose.

Sum so advanced, to be repaid, &c.

XXV. *And be it further enacted by the authority aforesaid,* That any sum of money, so advanced by the Receiver General, as aforesaid, shall be charged against the Trustees for the said Road, and shall be repaid in the same manner, as other monies borrowed for the purposes of this Act.

After fifteen years, Tolls to be raised so as to keep the Road in repair, and pay Loan in thirty years.

XXVI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said Trustees, to raise such Tolls on the said Road, from and after the expiration of fifteen years from the passing of this Act, as will enable them to keep such Road in repair, pay the interest on the said Loan, and redeem the principal sum of Twenty-five Thousand Pounds, within a period of not less than thirty years from the passing of this Act.

Debentures may be issued for a shorter period than thirty years.

XXVII. *And be it further enacted by the authority aforesaid,* That nothing in this Act contained, shall be construed to prevent the Receiver General from issuing any Debenture, authorised to be issued by this Act, redeemable at a shorter period than thirty years from the date of any such Debenture, and from issuing other Debentures for a renewed Loan, to replace the same or any part thereof, so that the whole sum of Twenty-five Thousand Pounds, be liquidated within the period of thirty years.

No obstruction of Road permitted.

XXVIII. *And be it further enacted by the authority aforesaid,* That no person shall leave any Wagon, Cart or other Carriage, nor shall lay, or cause to be laid or left, any matter or thing creating an obstruction of any kind, or nuisance upon the said Road, or in any of the Ditches or Drains

thereof; and every person so offending shall, for every such offence, forfeit and pay a sum not exceeding Twenty Shillings.

Parties offending liable to penalty.

XXIX. *And be it further enacted by the authority aforesaid,* That the fines and forfeitures, authorised to be imposed by this Act, shall and may be levied and collected by distress and sale of the offender's Goods and Chattels, under the authority of any Warrant or Warrants, for that purpose, to be issued by any one of His Majesty's Justices of the Peace, for the District of Gore, who are hereby authorised and empowered to grant the same.

Manner of levying fines and forfeitures.

XXX. *And be it further enacted by the authority aforesaid,* That if any person or persons shall cut, break-down or otherwise destroy, any of the Turnpike Gates, or any Toll-house, to be erected by virtue of this Act, every person so offending, and being lawfully convicted, shall be deemed guilty of a Misdemeanor, and punished by fine and imprisonment; and if any person or persons shall remove any Earth, Stone or Timber, on the said Road, to the damage of the same, or shall forcibly pass, or attempt to pass by force any of the said Gates, without having first paid the legal Toll at such Gate, such person or persons shall pay all damages by them committed, and shall forfeit and pay a fine not exceeding Two Pounds, nor less than Ten Shillings, Currency, to be recovered before any Magistrate of the District of Gore.

Punishment of parties injuring Road or attempting forcibly to pass Toll-gates without paying Tolls.

XXXI. *And be it further enacted by the authority aforesaid,* That the money authorised to be issued by this Act, shall be paid by the Receiver General of this Province, in discharge of any Warrant or Warrants issued for that purpose by the Governor, Lieutenant Governor, or Person Administering the Government of the same, and be accounted for to His Majesty, through the Lords Commissioners of His Treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

Money to be advanced upon Warrants, and to be accounted for through Lords of the Treasury.

XXXII. *And be it further enacted by the authority aforesaid,* That the said Trustees, if they think proper, may commute the Tolls with any person or persons, by taking of him or them a certain Sum, either monthly or annually, in lieu of such Tolls; and that the said Trustees shall affix, in a conspicuous place, at all such Toll-gates, a Table of the Rates of Tolls to be exacted and taken, to be plainly and legibly printed.

Trustees may commute Tolls, and affix tables at Toll gates.

XXXIII. *And be it further enacted by the authority aforesaid,* That if any person or persons shall, after proceeding upon the said Road, with any of the carriages or animals liable to pay Toll, turn out of the same,

Punishment of persons evading payment of Tolls;

into any other Road, and shall enter the said Road beyond the said Turnpike-gate or gates, without paying Toll, whereby such payment shall be evaded, such person or persons shall, for every such offence, forfeit and pay the sum of Ten Shillings, which said sum shall be expended on the said Road, or towards the payment of the Principal or Interest of the sum expended thereon; and any one Magistrate of the said District of Gore shall, on conviction of said offender, fine such person in the said penalty, and from whose judgment there shall be no appeal.

and appropriation of fines.

Owners and occupants of adjacent lands permitting persons to pass through them, to evade Tolls, liable to be fined.

XXXIV. *And be it further enacted by the authority aforesaid,* That if any person or persons, occupying or possessing any enclosed Lands near any Toll-houses or Toll-gates, which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such Lands, or through any gate, passage, or way thereon, with any carriage, or with any horse, mare, gelding, or other animal liable to the payment of Toll, whereby such payment shall be avoided, every person or persons so offending, and also the persons riding or driving the animal or carriage, whereon such payment is avoided, being thereof convicted, shall, for every such offence, severally forfeit and pay any sum not exceeding Ten Shillings, which shall be laid out in improving such Road.

Certain persons exempt from payment of Tolls.

XXXV. *And be it further enacted by the authority aforesaid,* That all persons, horses, or carriages, going to, or attending, or returning from any Funeral of any person, shall pass the gate free of Toll.

Vacancies among Trustees to be filled by Lieutenant Governor.

XXXVI. *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, from time to time, by Commission under his hand and seal, to nominate and appoint such person or persons as he may think fit, to fill any vacancy or vacancies which may happen in the said Board of Trustees, by death, resignation, or otherwise.

Trustees authorised to lease Tolls

XXXVII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Trustees, acting under the authority of this Act, if they deem it advisable and advantageous to the public interest, to Lease, from year to year, the different Gates, to such individuals as, upon due notice having been given, shall offer the highest terms for them.