

CHAP. LIII.

AN ACT to repeal, alter and amend, the Laws now in force for the regulation of the several Macadamized Roads within this Province.

[Passed 10th February, 1840.]

WHEREAS the Laws now in force for the regulation of the Macadamized Roads within this Province require amendment, and it is of great importance that one uniform system should be adhered to for regulating the construction, management, and maintenance of the same: *Be it therefore enacted* by the Queen'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 from and after the passing of this Act, the eighth, ninth, tenth, eleventh, twelfth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth, clauses of an Act passed in the third year of the reign of His late Majesty King William the Fourth, entitled, "An Act to raise a sum of money for the improvement of the roads in the vicinity of the Town of York, and for other purposes therein mentioned"; and also the eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-seventh, thirtieth, thirty-first, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth and thirty-ninth, clauses, and so much of the third clause of an Act passed in the sixth year of the reign of His said late Majesty, entitled, "An Act to continue the improvement of certain roads in the Home District," as relates to the power of Trustees; and also the third, sixth, seventh, eighth and ninth, clauses of an Act passed in the seventh year of His said late Majesty, entitled, "An Act for granting a further sum for completing the Macadamization of Yonge-Street, and other roads in the Home District"; and also the third clause of an Act passed in the first year of the reign of Her present Majesty Queen Victoria, entitled, "An Act for continuing the improvement of the Lake Road, West of the City of Toronto"; and also so much of an Act.

Preamble.

Section 8, 9, 10, 11, 12,
15, 16, 17, 18 and 19,
3d Wm. IV. ch. 38;

Also the 8th, 9th, 10th,
11th, 12th, 13th, 14th,
15th, 16th, 17th, 20th,
21st, 22nd, 23rd, 27th,
30th, 31st, 35th, 36th, 37th,
38th and 39th, sections,
and part of the 3rd sec.
6th Wm. IV. ch. 30;

Also sections 3, 6, 7, 8
and 9, of 7th Wm. IV.
ch. 75;

Also sec. 3, 1st Victoria,
ch. 34;

passed in the seventh year of His late Majesty's reign, entitled, "An Act to raise a sum of money to Macadamize the main road leading from Hamilton to Brantford, in the District of Gore, and for other purposes therein-mentioned"; also of an Act passed in the same year, entitled, "An Act to authorise the construction of a Macadamized Road from Dundas to Waterloo, in the Gore District"; also of an Act passed in the same year, entitled, "An Act to raise a sum of money to Macadamize the Roads leading from Brockville to Saint Francis, Charleston, Lyndhurst, Beverley and Portland, in the District of Johnstown, and to authorise the erection of Toll Gates on the said Roads"; also of an Act passed in the same year, entitled, "An Act to raise a sum of money to Macadamize the Road between the Town of Kingston and the Village of Napanee, in the Midland District, and for other purposes therein-mentioned"; and also of an Act passed in the same year, entitled, "An Act to raise a sum of money to Macadamize the main road from Queenston to the West boundary line of Grimsby, in the Niagara District, and for other purposes therein-mentioned"; and of any other Act passed by the Legislature of this Province as may be contrary to or inconsistent with the provisions of this Act, shall and the same are hereby declared to cease and stand repealed.

Also part of 7th Wm. IV. ch. 78;

Also part of 7th Wm. IV. ch. 75;

Also part of 7th Wm. IV. ch. 80;

Also part of 7th Wm. IV. ch. 81;

Also part of 7th Wm. IV. ch. 82;

Also such parts of any other Statutes as are contrary to the provisions of this Act, repealed.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the present Trustees of the several Turnpike Trusts in this Province, to form a Board within their respective Districts, to be known by the style and title of the Commissioners of the — District Turnpike Trust; and the said Commissioners, for the time being, shall have power and authority over the several Macadamized Roads within the limits of their Districts respectively, so far as the improvement of the same has been authorised by any Act of the Legislature of this Province.

Trustees of the several turnpike trusts in each District to form a Board in their Districts;

Powers of such Boards.

III. *And be it further enacted by the authority aforesaid,* That no person who shall be appointed a Commissioner by virtue of this Act, shall act as such Commissioner, unless he shall, before he shall act as such, take and subscribe before any Justice of the Peace for the District, (who is hereby authorised to administer the same,) the oath following, that is to say: "I, A. B., do swear that I will truly and impartially, according to the best of my judgment, execute and perform the several powers, authorities and trusts reposed in me as a Commissioner, by virtue of an Act passed in the third year of the reign of Her Majesty Queen Victoria, entitled, 'An Act to repeal, alter and amend the laws now in force for the regulation of the several Macadamized Roads within this Province.'"

Oath to be taken by each Commissioner.

IV. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the said Commissioners, and they are hereby authorised and empowered to make, divert, shorten, vary, alter, and improve the course of any part of the above-mentioned Roads within their own trusts, upon, through, in and over any private lands or grounds, making or tendering satisfaction to the owners thereof, or persons interested therein for the same, and for any damages they may sustain thereby, in such manner as they shall think proper, so that any such Road shall not exceed one chain in width, together with such footpaths, causeways, bridges, arches, banks, culverts, ditches, drains, and fences on the line of such Road, as they shall think necessary and expedient; and it shall also be lawful for such Commissioners, and their Engineer or Surveyor, and workmen, with or without carts or carriages, from time to time, to enter upon the lands and grounds through which or whereupon such roads, footpaths, causeways, bridges, arches, banks, culverts, ditches, drains and fences is or are intended to be made or pass, and also upon any adjoining lands or grounds, to stake out the same in such manner as the said Trustees shall think necessary and expedient, without being deemed a trespasser or trespassers, and without being subject or liable to any fine, penalty or punishment for entering or continuing upon such lands or premises respectively, for any of the purposes of this Act; and if any person shall pull up, remove or destroy any stakes or other marks used for the purposes aforesaid, every person so offending shall forfeit and pay for every such offence, a sum not exceeding Twenty Shillings: *Provided always,* that it shall not be lawful for the Commissioners appointed under and by virtue of this Act, in altering or diverting the course of any part of the Turnpike Roads under their care and management, to take or pull down any dwelling house, or to take or make use of any orchard, garden, planted walk, or avenue to a house, or any enclosed ground planted as an ornament or shelter to a house, or set apart as a nursery for trees, or any part thereof respectively, without the consent of the owner or proprietor thereof in writing first had and obtained: *Provided always,* that if the owners or occupiers of any lands or grounds taken by the Commissioners for the purposes of this Act, shall not be satisfied with the allowance offered, the same shall be decided by a Jury of the District in which such Road shall be situated, 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 said 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 moneys in their hands for the purposes of the said Act.

Powers of Commissioners as to course of roads,
over private lands,
tendering satisfaction;
Width of road;
Powers to enter upon lands;
Penalty for removing stakes, &c.
Commissioners not to pull down a dwelling house, or make use of an orchard, &c.
without consent of owner;
If owner of lands dissatisfied with tender, to be decided by a jury;
Costs, by whom payable.

V. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Commissioners under this Act, to treat, contract and agree with the owners of and persons interested in any lands, tenements, hereditaments and premises, with their appurtenances, which they shall deem necessary to purchase for the purpose of widening, diverting, altering and improving any of the Turnpike Roads, for the purchase thereof, and for the loss or damage such owners or persons may otherwise sustain; and also to contract and agree with any person or persons whomsoever, for the purchase or demise from him, her or them, of and to hold any land or ground, for the purpose of digging stones, gravel and materials therefrom for the repair or use of the said Roads; and at any time after to sell the ground so purchased by Public Auction or tender: *Provided always,* that the entering into any such agreement or contract shall not be compulsory against any person or persons unwilling to enter into the same; and after any new Road shall be completed, the lands or grounds constituting any former road or roads, or so much and such part thereof as in the judgment of the Commissioners may thereby become useless or unnecessary, or shall and may be stopped up as public highways, shall be vested in and shall and may be sold and conveyed by the said Commissioners, in the manner before-mentioned, and the money arising from such sale, shall be applied for the purposes of this Act, for repairing and maintaining the Turnpike Roads; or it shall be lawful for the said Commissioners, instead of making such sale as aforesaid, to give up to the owners of any adjoining lands, whose building, land or ground, shall be taken for the purposes of this Act, any part or parts of the present or old roads, in lieu of and in exchange for the same, in such way and manner as such Commissioners and owners or proprietors, shall agree upon and think fit.

Commissioners may treat for the purchase of lands with the owners;

For altering the road;

Or for obtaining materials;

And may afterwards sell land purchased by them;

Not compulsory on any owner;

Old roads not required may be stopped up, and the land sold;

Or exchanged with owners for lands taken from them.

VI. *And be it further enacted by the authority aforesaid,* That no Commissioner shall, from and after this Act shall be in force, enjoy any office or place of profit, or have any share or interest, or be in any manner, directly or indirectly, concerned in any contract or bargain for making or repairing, or in any way relating to the roads for which he shall act, or for building or repairing any Toll House, Toll Gate or Weighing Engine thereon, or for supplying any materials for the use thereof, nor shall any such Commissioner let out for hire any waggon, cart or other carriage, or any horse, cattle or team, for the use of the Turnpike Roads for which he shall act as Commissioner; nor by himself or by any other person for or on his account, directly or indirectly, receive any sum or sums of money to his use or benefit, out of the sums appropriated by any Act of the Legislature for making said Roads, or out of the Tolls collected

Commissioners to hold no office of profit, nor have any interest in any contract in any way relating to the roads;

Nor in any way receive any of the moneys appropriated to making the roads;

Penalty for breach of these regulations :

After conviction Commissioner incapable of serving ;

And all his acts as Commissioner, declared void thenceforward ;

Acts as Commissioner before conviction valid ;

Not to extend to moneys paid for sale of or damages to lands ;

Or for materials taken ;

Or to prevent his selling for the use of the road any materials or timber.

Commissioners to appoint an Engineer or Surveyor, His duty ;

Commissioners to appoint Collectors of tolls, Clerks, and other necessary Officers ;

out of the said Roads ; and if any person after having been appointed a Commissioner of said Roads, shall, without having first duly resigned such office at some meeting of the Commissioners of the said Roads, hold any such office or place, or be concerned in any such contract or bargain, or shall sell any such tools or implements, or let out for hire any waggon, cart, carriage, horse, cattle or team, or receive any money out of the appropriations aforesaid, or out of the Tolls collected on said Roads, every Commissioner so offending shall for every such offence, forfeit and pay the sum of One Hundred Pounds, to be recovered in the manner hereinafter provided ; and from and after the conviction of any such offence, be incapable of acting as a Commissioner of said Roads ; and all acts, orders, matters and things made or done as a Commissioner, by the party so convicted, shall from thenceforward be null and void to all intents and purposes, and all and every such contract or bargain, shall be and is hereby declared to be void, and shall not be enforced or carried into effect by the other Commissioners entering into the same : *Provided always*, that all acts, orders, matters and things made or done by such Commissioner, previous to his being convicted of any such offence, shall be good, valid and effectual : *And further provided*, that nothing in this enactment contained, shall extend or be deemed or construed to extend, to any Commissioner who shall receive any sum or sums of money paid out of the appropriation aforesaid, or out of the Tolls collected on said Roads by way of purchase money, damages, rent, recompense or satisfaction, agreed upon or awarded to such Commissioner for any lands, grounds or tenements purchased or taken for the purpose of diverting or altering, or for the use of said Roads, or for a repository for materials to be used thereon ; or for damage done to any enclosed or private grounds of such Commissioner in taking materials therefrom, or in carrying and conveying them over the same ; or to prevent any such Commissioner from selling or disposing of, for the use of the Turnpike Roads, any materials or any timber grown or growing on the grounds of such Commissioner.

VII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Commissioners acting under the authority of this Act, and they are hereby empowered and required by writing under their hands, to appoint a competent Engineer or Surveyor, whose duty it shall be to superintend the construction and repairing of the Turnpike Roads under their care or management, to inspect and measure materials, make surveys, and report upon all proposed alterations, and generally to assist under the directions of the Commissioners in or about the execution of this Act, for making and maintaining such Roads ; and the said Commissioners are hereby empowered by writing under their hands, to appoint

such Collector or Collectors of the Tolls arising on such Roads, and a Clerk or Clerks, and such other officers as the said Commissioners shall think necessary; and such Engineer or Surveyor, Clerks, Collectors, and other officers, or any of them, from time to time to remove, or on removal, death or resignation of any such Engineer, Clerks, Collectors and other officers, to appoint others in their stead; and may and are hereby authorised out of any moneys arising on such Turnpike Roads, to allow and pay to such Engineer, Collectors, Clerks and other officers, and to such other persons as shall be assisting them, or any of them, in or about the execution of this Act, in making and repairing such Roads, such salaries, rewards and allowances for their attendance, care, labour and services, as such Commissioners shall deem reasonable: *Provided always*, that it shall not be lawful for the Commissioners to appoint, or continue the person who may be appointed to act as their Clerk in the execution of this Act, or the partner of any such Clerk, to be or to hold the offices of Clerk and Engineer or Surveyor, for the purposes of this Act, or to appoint or continue the person who may be appointed Engineer or Surveyor, or the partner of such Engineer or Surveyor, to be Clerk and Engineer or Surveyor, for the purposes of this Act; and if any person shall act in both capacities of Clerk and Engineer or Surveyor, or if any person being the partner of such Clerk, shall act as Engineer or Surveyor, or being the partner of such Engineer or Surveyor, shall act as Clerk in the execution of this Act, every person shall for every such offence forfeit and pay the sum of Fifty Pounds, to be recovered in the manner hereinafter provided.

And to remove them:

And appoint others;

And to fix and pay their salaries;

The same person not to act as Clerk and as Engineer or Surveyor;

Penalty for breach of this enactment.

VIII. *Provided always, and be it further enacted by the authority aforesaid*, That the Commissioners shall and they are hereby required to take sufficient security from the Engineer or Surveyor, Clerks and Collectors of Tolls; and if they shall so think proper, shall and may also take such security from any other officer to be appointed under and by virtue of this Act.

Commissioners to take security from Engineer, Clerks, and Collector.

And from any other Officer they may think fit.

IX. *And be it further enacted by the authority aforesaid*, That if the Engineer or Surveyor, or Clerk, or other officer to be appointed by the Commissioners under and by virtue of this Act, shall have any part, share or interest in any contract or bargain for work, materials or tools to be done or provided, upon, for or on account of the Turnpike Roads, or any part thereof under his or their care and management, or shall upon his or their own accounts, directly or indirectly, let to hire any team, or sell and dispose of any timber, stone or other materials to be used or employed

Penalty on Engineer, Clerk or Officer, being concerned in any contract, &c.

in making or repairing such Roads, he or they shall forfeit, for every such offence, the sum of Fifty Pounds.

Power of Engineer, &c. to search for, dig and take materials, in private grounds ;

Not being an Orchard, &c.

Making and tendering satisfaction ;

As Commissioner may approve ;

In case of difference ;

To be settled by two Justices.

X. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Engineers or Surveyors to the Commissioners under this Act, and for all such persons as he or they shall appoint, to search for, dig, gather, take, and carry away any materials for making or repairing the Turnpike Roads, in or out of the lands of any person or persons where the same may be had or found, in any Township or place in which any of such Roads shall lie or be situate, or in any adjoining Township or place, not being an orchard, garden, planted walk or avenue to any house, or any enclosed ground planted as an ornament or shelter to an house, or set apart as a nursery for trees, making and tendering such satisfaction for such materials, and for the damage done to the owners or occupiers of the land where or from whence the same shall be dug, gathered and carried away, or over which the same shall be carried, as the said Commissioners shall judge reasonable ; and also to carry through and over any enclosed lands or ground, not being an orchard, garden, planted walk or avenue to any house, or any enclosed ground planted as an ornament or shelter to a house, or set apart as a nursery for trees, paying or tendering for the damage done in going through or over any enclosed lands or grounds for or with such materials, such sum or sums of money as the said Commissioners shall deem reasonable ; and in case of any difference between such Commissioners, Engineers or other persons appointed or employed as aforesaid, and the owners and occupiers of such lands, or any of them, concerning such payments and damages as aforesaid, any two or more Justices of the Peace for the District, on ten days notice thereof being given in writing by either party to the other, shall hear, settle and determine the matter of such payment and damages, and the costs attending the hearing and determining the same.

No materials to be taken without notice to the owner of the premises, to appear before two Justices to oppose it ;

XI. *Provided always, and be it further enacted by the authority aforesaid,* That it shall not be lawful for any Engineer, or any other person or persons acting under the authority of this Act, to dig, gather, get, take or carry away any materials for making and repairing the Turnpike Roads from any enclosed land or ground, until notice in writing, signed by the Engineer, shall have been given to the owner or owners of the premises from which such materials are intended to be taken, or his or their known Agent, or to the occupiers of the premises from which such materials are intended to be taken, or left at the house or last or usual place of abode of such owner or occupier, to appear before any two or more Justices of the Peace acting in and for the District, to shew cause why such materials

shall not be had therefrom; and in case such owner, agent or occupier, shall attend pursuant to such notice, but shall not shew sufficient cause to the contrary, such Justices shall, if they think proper, authorise such Engineer or other person to dig, get, gather, take and carry away such materials, at such time or times, as to such Justices shall seem proper; and if such owner, agent or occupier, shall neglect or refuse to appear, the said Justices shall and may, upon proof on oath of the service of such notice, which oath they are hereby empowered to administer, make such order therein as they shall think fit, as fully and effectually to all intents and purposes as if such owner or occupier had attended: *Provided always*, that the Commissioners shall not be required to pay any larger sum, as a satisfaction for any materials raised, taken or carried away from any lands or grounds for making or repairing the Turnpike Roads, than such sum of money as shall appear to the two or more Justices settling and determining such satisfaction that such materials might or could have been actually sold for, in case the same had not been raised, taken or carried away by such Commissioners; and in case the said Justices shall be of opinion that the said materials, before they had been so raised, taken or carried away, could not have been sold or disposed of, then the said Justices shall only assess the damage done to lands or grounds of the owners or occupiers thereof, by the raising, gathering and carrying away the same.

If owner appear, Justices may decide;

If owner neglect to appear, Justices may decide, on proof of service of notice:

Provide as to sum which Commissioners may be called on to pay.

XII. *And be it further enacted by the authority aforesaid*, That if the Engineer or Surveyor, or any other person employed by him, shall by reason of the searching for, digging or getting any gravel, sand, stone or other materials for repairing the Turnpike Roads, make or cause to be made any pit or hole in any lands or grounds as aforesaid, wherein such materials shall be found, the said Engineer or Surveyor shall forthwith cause the same to be sufficiently fenced off, and such fence supported and repaired, during such time as the said pit or hole shall continue open, and shall within three days after such pit or hole shall be opened or made, where no gravel, stones or materials shall be found, cause the same forthwith to be filled up, levelled and covered with the turf or clod which was dug out of the same, and where any such materials shall be found, within fourteen days after having dug up sufficient materials in such pit or hole, if the same is not likely to be further useful, cause the same to be filled up, sloped down or fenced off, and so continued, and if the same is likely to be further useful, the said Engineer shall secure the same by posts and rails, or other fences, to prevent accidents to persons or cattle; and in case such Engineer or Surveyor shall neglect to fill up, slope down, or

Provide in case pit or holes are dug for materials;

To fence same round;

If no materials found to fill up pit;

Penalty for negligence.

fence off such pit or hole, in manner and within the time aforesaid, he shall forfeit the sum of twenty shillings for every such default.

Engineers, &c. may cut drains and water-courses through contiguous lands;

May make ditches, fences and barriers;

Making satisfaction to the owner of lands injured;

Disputes as to value to be settled by two Justices.

XIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Engineer or Surveyor, and such other person and persons as shall be appointed by the Commissioners under this Act, from time to time, to cut, make and maintain drains or watercourses, upon and through any lands lying contiguous to any of the Turnpike Roads; and also to make ditches in such places and in such manner, as such Engineer by order of such Commissioners, shall judge necessary; and make sufficient fences and barriers, and other erections, on any part or parts of the said Roads, in order to prevent any rivulet or current of water from flooding the same, as such Engineer shall judge necessary, making such satisfaction to the owner or occupier of such lands so to be used, cut through or built upon, for the damages which they or any of them may sustain thereby, as such Commissioners shall judge reasonable; and in case of any difference between such owner or occupier and such Commissioners, touching such damages, the same shall be finally settled by any two or more Justices of the District.

Meetings of Commissioners regulated;

No orders to be made unless a majority of Commissioners present concur;

All the powers of Commissioners may be executed by the major part of them;

Number present not being less than five;

Chairman to be appointed;

To have a casting vote;

XIV. *And be it further enacted by the authority aforesaid,* That the Commissioners appointed under and by virtue of this Act, shall and may from time to time, meet at such time and place on or near the Turnpike Roads, as to them shall seem convenient, and may adjourn themselves to meet at any place and time as the major part of them present at any meeting shall appoint, and all orders and determinations of the Commissioners in the execution of this Act, shall be made at meetings to be held in pursuance thereof, and not otherwise; and that no order or determination shall be made, unless the major part of the Commissioners present shall concur therein, and that all acts, orders and proceedings relating to this Act, which are directed to be had, made, done, or exercised by or before the said Commissioners, and all the powers and authorities vested in them generally, shall and may be had, made, done and exercised by the major part of the Commissioners, who shall be present at the respective meetings to be held by virtue of this Act, the whole number present not being less than five, and that all acts, orders or proceedings, had, made or done by or before such five Commissioners, shall have the same force and effect as if the same were had, made or done by or before all the said Commissioners; and that a Chairman shall and may, in the first place, be appointed at any meeting to be held by virtue and for the purposes of this Act, who shall have the casting or decisive vote, in case of an equal number of votes, (including the Chairman's vote); and that no order or

determination at any meeting of the said Commissioners, once made, agreed upon or entered into, shall be revoked or altered at any subsequent meeting, unless notice of the intention to make such revocation or alteration shall have been given by three or more Commissioners, by writing under their hands, to the Clerk to the said Commissioners, at a previous meeting, and entered in the book of proceedings of such meeting; and unless notice, signed by any two or more Commissioners, shall have been affixed on all the Turnpike Gates then erected on such Roads, twenty-one days at least before such meeting, nor unless such revocation or alteration shall be agreed to be made by a greater number of Commissioners than concurred in the making of any such order or determination; and at their several meetings the Commissioners shall pay and defray their own expenses, except any sum not exceeding ten shillings per diem, for the use of the room wherein they shall meet.

No order once made to be revoked unless notice of intention to revoke be given;

And affixed on turnpike gates;

And unless revocation be made by a greater number than made the order;

Commissioners allowed no expenses except for the room in which they meet.

XV. *And be it further enacted by the authority aforesaid,* That all orders and proceedings of the Commissioners appointed under and by virtue of this Act, together with the names of the Commissioners present at every meeting, shall be entered in a book or books, to be kept by the Clerk to the said Commissioners for that purpose, and be signed by the Chairman of the meeting or meetings at which such orders or proceedings shall be from time to time made or had; and that such book or books shall be open at all seasonable times to the inspection of any of the Commissioners, without fee or reward, and such orders and proceedings so entered and signed by the Chairman of such meeting or meetings as aforesaid, shall be deemed and taken to be original orders and proceedings, and which said book or books, as well as the book or books in which the oath directed to be taken by the said Commissioners shall be entered, shall and may be read in evidence in all Courts whatsoever, in all cases of appeal, and in all prosecutions, suits and actions whatsoever.

Orders and proceedings of Commissioners to be entered in a book;

To be signed by Chairman;

Books open for inspection:

Books may be read in evidence in Courts.

XVI. *And be it further enacted by the authority aforesaid,* That the Commissioners under this Act, shall and they are hereby required from time to time, and at all times, to order and direct a book or books to be provided and kept by their Clerk for the time being, in which book or books the Clerk shall enter, or cause to be entered, true and regular accounts of all sums of money received, paid, laid out and expended for or on account of each road respectively, and of the several articles or things for which such sums of money shall have been disbursed, laid out and paid; and all books containing the accounts and proceedings of the Commissioners in the execution of this Act, shall be admitted in evidence in all Courts, and by all Judges, Justices, and others, without proving the

Books of account to be kept;

To be admitted in evidence in all Courts;

facts therein-contained, unless such facts or any of them shall be first controverted, and all such books shall be preserved and kept by the Clerk for the time being of such Trustees, and shall at all seasonable times be open to the inspection of the said Commissioners, without fee or reward, and the said Commissioners may take copies or extracts from the said book or books, without paying any thing for the same; and in case the said Clerk shall refuse to permit the Commissioners to inspect the said book or books, or to take such copies or extracts as aforesaid, such Clerk shall forfeit and pay any sum of money not exceeding Five Pounds for every such offence.

Books open to inspection;

Penalty on Clerk refusing to produce books.

Commissioners may sue and be sued in the name of their Clerk;

Actions not to abate by death of any Commissioner;

Or without consent of Commissioners;

Clerk to be reimbursed all sums which he has become chargeable with as plaintiff or defendant.

XVII. *And be it further enacted by the authority aforesaid,* That the Commissioners appointed under and by virtue of this Act, may sue and be sued in the name of their Clerk for the time being; and that no action or suit to be brought or commenced by or against the Commissioners, in the name of such Clerk, shall abate or be discontinued by the death or removal of any Commissioners or Clerk, or any of them, or by the act of any Commissioner or Clerk without the consent of the said Commissioners, but that the Clerk for the time being to the said Commissioners, shall always be deemed to be the plaintiff or defendant (as the case may be) in every such action or suit: *Provided always,* that such Clerk shall be reimbursed out of the moneys belonging to the Turnpike Road Trust, all such costs, charges and expenses, as he shall be put to or become chargeable with, or liable to, by reason of his so being made plaintiff or defendant.

Commissioner ordering the expenditure of money not authorised by this Act made personally liable;

Exception.

XVIII. *And be it further enacted by the authority aforesaid,* That every Commissioner who shall order or direct the expenditure of any money, for or towards the making or repairing or altering any road not comprehended in this Act, or for or towards the performance of any act, matter or thing not authorised by this Act, such Commissioner shall be personally liable to the Trust for the re-payment of the money so expended at the suit of any person, or of any Commissioner, or of the Clerk to the said Commissioners on behalf of the Trust: *Provided always,* that no Commissioner shall be personally subject or liable (except as next hereinbefore mentioned) to the payment of any sum or sums of money laid out or expended in or towards the making, repairing or altering the Turnpike Roads authorised by this Act, nor shall execution issue against the goods and chattels of any Commissioner by reason of his having acted as such Commissioner, or having signed or authorised or directed any contract or security to be entered into relating to any such Road, unless in such con-

tract or security such Commissioner shall have in express words rendered himself so personally liable.

XIX. *And be it further enacted by the authority aforesaid,* That it shall and may be the duty of the Commissioners, and they are hereby required to hold a general meeting on the first Monday in November in each year, when they shall examine into the revenues and debts of the Trust, and the Clerk to the Commissioners shall forthwith make out a statement of the debts, revenues and expenditure received and incurred on account of the Trust, in the form contained in the Schedule to this Act annexed, which said statement shall be submitted to the Commissioners assembled at such meeting, and when approved by the majority of them, shall be signed by the Chairman of said meeting; and the said statement being so approved and signed by the said Clerk shall within ten days thereafter transmit the same to the Lieutenant Governor of the Province, for the information of the Legislature; and if such Clerk shall refuse or neglect to make out such statement as aforesaid, or to transmit the same within the time hereinbefore-mentioned, the Clerk so offending shall forfeit and pay the sum of Fifty Pounds, to be recovered as hereinafter directed.

General meeting of Commissioners;

When :

What to be done there :

Statement there adopted to be sent to Lieutenant Governor within 10 days :

Penalty on Clerk for neglecting.

XX. *And be it further enacted by the authority aforesaid,* That all such officers as shall be appointed by the Commissioners under this Act, shall from time to time, when thereunto required by the said Commissioners, deliver to them, or to such person or persons as they shall for that purpose appoint, true, exact, and perfect accounts in writing, under their respective hands, of all moneys which they and every of them respectively shall have received to that time by virtue of any Act, and how much thereof has been paid and disbursed, and for what purpose, together with the proper vouchers for such payments, and shall pay all such moneys as shall remain in their or any of their hands, to the said Commissioners, or to such person or persons as they shall appoint to receive the same, and not otherwise, within such time as the said Commissioners shall limit and appoint; and if any such officer shall refuse or neglect to produce or deliver up such accounts, and the vouchers relating to the same, or shall refuse or neglect to pay the money due on such account within the time, or in manner aforesaid, or if any such officer or person shall refuse or neglect to deliver up to the Commissioners, or to such person or persons as they shall appoint, within ten days after being thereunto required by the said Commissioners, all the books, papers, writings, tools and implements in his custody or power, relating to the execution of this Act, then in any and every of the said cases, it shall be lawful for any two or more Justices of the Peace for the District, upon complaint made to them by

Officers whenever required by Commissioners to render accounts of all moneys.

with proper vouchers;

If Officer neglect or refuse to comply in any respect;

Two Justices on complaint may summon such Officer;

or on behalf of the said Commissioners, and such Justices are hereby required, by warrants under their hands and seals, to summon such officer or officers, person or persons, to appear before them; and upon his or their appearing, or not being to be found, to hear and determine the matter of such complaint in a summary way, and to settle the said account or accounts, if produced; and if upon confession of the officer or officers, person or persons against whom any such complaint shall be made, or by the oath or oaths of any witness or witnesses, (which oath such Justice is hereby empowered and required to administer,) or upon inspection of the said accounts, if produced, it shall appear to such Justices that any of the money which shall have been collected or received, shall be in the hands of such officer or officers, person or persons, such Justices may and are hereby authorised and required, on non-payment thereof, by warrant under their hands and seals, to cause such money to be levied by distress and sale of the goods and chattels of such officer or person respectively; and if no goods and chattels can be found sufficient to answer and satisfy the said money, and the charges of distraining and selling the same, or if such officer or other person shall not appear before the said Justices at the time and place appointed by them for that purpose, unless for some sufficient reason, or if appearing shall refuse or neglect to give and deliver up to the said Justices an account of all the receipts and payments as aforesaid, or to produce and deliver up to the said Justices the several vouchers and receipts relating to such accounts respectively, or the books, accounts, papers, writings, tools and implements, in his custody or power relating to the execution of this Act, then and in either of the cases aforesaid, such Justices may and they are hereby authorised and required, by warrant under their hands and seals, to commit such officer or person to the common Gaol of the District, there to remain without bail or main-prize, in case he shall be committed for non-payment of any money received by him, or in his hands, until he shall have accounted for and paid the full amount thereof, or compounded with the Commissioners, and paid such composition in such manner as the said Commissioners may appoint, (which composition the said Commissioners are hereby empowered to make,) or in case he shall be committed for not delivering up any account, books, papers, writings, tools or implements as aforesaid, or make satisfaction in respect thereof to the said Commissioners: *Provided* that no person who shall be committed for want of sufficient distress, shall be detained in prison, by virtue of this Act, for a longer period of time than six calendar months.

And determine the matter,

If moneys are in hands of such Officer;

Justices may cause the same to be levied by distress;

If no goods,

Or if Officer do not appear,

Or neglect or refuse to deliver accounts and vouchers, or books, &c.

Justices may commit such Officer to gaol;

No person committed for want of sufficient distress to be detained longer than six months.

Commissioners to continue present toll gates;

XXI. *And be it further enacted by the authority aforesaid, That it shall be lawful for the Commissioners under this Act, and they are hereby*

authorised and empowered to continue all and every or any of the Toll Gates or Toll Houses now standing, or being in, upon or across any of the Turnpike Roads, or on the sides thereof, and from time to time, at any special meeting to be holden for that purpose, of which meeting public notice, specifying the time and place and the purpose thereof, shall have been given in some Newspaper published and circulated in the District, and also by affixing a copy of such notice on all the Turnpikes, Toll Gates or Side Bars, (if any,) which shall be standing on such Road fourteen days previously to such meeting, to order and direct, by some order in writing, that there be erected and built in, upon or across any of the Turnpike Roads, or any part thereof, or upon the sides thereof, or any part thereof, when and where they shall judge necessary, such and so many Turnpikes, Toll Gates, Side Bars and Chains, with Toll-houses, out-houses and other conveniences thereto; and also to take in and enclose on the sides of such Roads, or any part thereof, suitable garden spots for each of such Toll-houses, not exceeding one-eighth of a statute acre to each Toll-house, as the said Commissioners shall direct or appoint; and also shall and may, from time to time, at any such meeting, or at any other meeting to be called as aforesaid, and by such order as aforesaid, from time to time, order and direct any of such Toll Gates, Turnpikes, Side Bars and Chains, to be taken down or discontinued, or to be removed and placed elsewhere, upon, across or on the sides of such Roads, in such situations as to them the said Commissioners may appear fit or eligible.

And after public notice.

to direct erection of new and additional toll gates;

And to enclose land on road side for gardens to toll-houses;

And may discontinue any toll-gate,

Or change their site.

XXII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Commissioners to order and direct one or more lamp or lamps, to be erected and placed on or against, or in front of each and every of the Toll-houses on the Roads, and also to order and direct at what times of the year, and during what hours such lamp or lamps, or any of them, shall be kept lighted; and all and every the Collector and Collectors of Tolls on such Roads, who shall neglect or omit to observe and fulfil the orders of the said Commissioners, in respect to the keeping or lighting such lamp or lamps, shall forfeit and pay any sum not exceeding twenty shillings for every such neglect or omission; and in case any person shall wilfully damage or injure any lamp so set up as aforesaid, or extinguish the light therein, such person shall forfeit and pay any sum not exceeding forty shillings for every such offence.

Commissioners may order lamps to be erected at toll-houses;

Collectors refusing or neglecting liable to a penalty;

Penalty for wilful damage to such lamps.

XXIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the said Commissioners, at any of their respective meetings, if they think proper, to order or cause to be built and erected, at any of the Turnpikes or Toll Gates, on the Roads under their care and

Commissioners may order the erection of weighing machines;

management, one or more Crane or Cranes, Machines or Engines, proper for the weighing of waggons or carriages conveying any goods or merchandize whatsoever; and by notice on a board for that purpose, to be put up at or near to every such Weighing Machine, to order and direct all and every such waggons or carriages as shall come within one hundred yards of any such Crane, Machine or Engine, on such Turnpike Roads, to be weighed, together with the lading thereof.

And may direct waggons &c. to be weighed.

Keeper of toll-gate, when weighing machine erected, to weigh waggons, &c.

Penalty for neglect of duty;

Penalty on owner refusing to have his waggon, &c. weighed.

XXIV. *And be it further enacted by the authority aforesaid,* That the Keeper of every Toll Gate or Bar, where any Weighing Engine shall be erected, or any other person who shall be appointed by the Commissioners to the care of such Weighing Engines, shall and he is hereby required to weigh all such waggons, carts and other carriages liable to be weighed, as shall pass laden through such Gates or Bars respectively, and which he shall believe to carry greater weights than are allowed to pass without paying additional Toll; and if any Collector or person so appointed shall permit any such waggon, cart or carriage, to pass by or through any Toll Gate, of which he is in charge, with a greater weight than that allowed, without weighing the same, and receiving the additional Toll, he shall for every offence forfeit the sum of Five Pounds; and if the owner or driver of any waggon, cart or other carriage, shall refuse to allow the same to be weighed, or shall resist any Gate Keeper or other person appointed in weighing the same, the owner or driver so offending shall forfeit and pay any sum not exceeding Five Pounds.

Power of Commissioners as to tolls already imposed;

May lessen tolls;

And increase again the tolls so lessened;

And on removal of gates or erection of new ones,

may impose tolls;

XXV. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Commissioners appointed under this Act, to continue to demand and receive the Tolls now directed to be taken and collected by any Act passed by the Legislature of this Province, for making and maintaing the Macadamized Roads, and they are hereby also empowered, at a meeting to be held for that purpose, of which meeting one calendar month's notice shall have been given in writing, to be affixed at all Turnpike Gates which shall be then erected upon such Roads, and in some public Newspaper published in the District, from time to time, to lessen or reduce all or any of the Tolls to be taken and collected as aforesaid, for and during such time as the Commissioners shall think proper, and afterwards at any meeting to be held as aforesaid, from time to time, as they shall see occasion, to increase all or any of the Tolls so lessened, to any sum or sums of money, and also upon any Toll Gates, Turnpikes, Side Bars and Chains, being removed and placed elsewhere, or upon the erection or buildings of such other Toll Gates, Turnpikes, Side Bars or Chains, as the said Commissioners shall direct, they are hereby authorised

and empowered, at any meeting to be held as aforesaid, to fix such Toll to be demanded, taken, collected and received at every such Toll Gate, Turnpike or Side Bar, so removed and placed or erected elsewhere, as may be found necessary and expedient to answer the purposes of this Act: *Provided always*, that the amount of Tolls collected upon each of the Turnpike Roads mentioned in this Act, shall not be less annually, after deducting the expense of collection, than will pay the interest of the principal sum expended in constructing the same respectively, and also pay such further sum as may be found necessary to keep the said Roads in repair, together with the salaries of the Engineer or Surveyor, and Clerk or Clerks.

Amount of tolls to be sufficient to pay all charges, the interest of the debt, and necessary repairs.

XXVI. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Commissioners appointed under this Act, to raise such Tolls on the Turnpike Roads, from and after the expiration of twelve years from the passing of this Act, as will enable them to keep such in repair, pay the necessary officers employed in the execution of this Act, and redeem the balance of the principal sum expended in constructing said Roads, within a period of not less than twenty-six years from the passing of this Act.

Further powers of raising tolls after the expiration of twelve years.

XXVII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Commissioners of the Turnpike Roads, at a public meeting, to let to farm the Tolls of the several Gates erected upon such Turnpike Roads, in the manner hereinafter mentioned, that is to say: the Commissioners shall cause notice to be given of the time and place of letting the same, at least one month before the day appointed for that purpose, by affixing the same upon every Toll Gate belonging to such Turnpike Roads, and by insertion thereof in some public Newspaper circulated in the District, and specifying in every such notice the sum which the said Tolls produced in the preceding year, clear of the salary for collecting the same, in case any hired Collector was appointed, and that they will let such Tolls by Auction, to the best bidder, upon his producing sufficient sureties for the payment of the money monthly, and that they will be put up at the sum which they were let for or produced in the preceding year, clear of the salary of the Collector; the highest bidder shall be the farmer or renter of the said Tolls, and shall forthwith enter into a proper agreement for the taking thereof, and paying the money at the time specified in such notice, with such surety or sureties for the payment thereof, and under such conditions, and in such manner as the said Commissioners shall think fit; and if the person being the highest

Commissioners may farm out tolls;

Notice to be given;

What notice must contain;

Highest bidder to be the farmer of the tolls;

Sureties to be given;

If highest bidder fail
tolls to be put up again
immediately ;

If no bidder, or if tolls
not let at auction,

Commissioners may accept
a private tender ;

It not less than the sum
for which they were last
let ;

Or may appoint a
Collector ;

Or fix a future day for
letting the same ;

Penalty for taking a
greater or less toll than
that regulated ;

Commissioners may
appoint a person to bid
for tolls ;

Not to be let for more
than twelve months at a
time.

Commissioners and their
Collectors may daily
demand and receive tolls,

Tolls payable before any
horse, &c. allowed to
pass.

bidder shall not forthwith enter into such agreement, it shall and may be lawful to put up the said Tolls again immediately for another bidder, and in like manner to continue putting up the same until a bidder shall be found who shall enter into such agreement; and in case no bidder shall offer, or in case the same shall not be let at such Auction, it shall be lawful for the said Commissioners to accept a private tender for the same, and to demise or let to farm all or any of such Tolls, at any sum not less than the sum at or for which they shall then have been last let, or the said Commissioners may appoint a Collector of such Tolls, or fix some future day for the letting thereof, as they shall judge most proper, upon giving such notice thereof as aforesaid, and shall and may in that case put them up at such sum as they shall think fit; and if the person who shall be the farmer, renter or collector of such Tolls, shall take a greater or less Toll from any person than what is authorised and directed by the Commissioners under this Act, he shall for every such offence forfeit the sum of Five Pounds, and the said Agreement for renting the Tolls shall, if the Commissioners think fit to vacate the same, become null and void: *Provided always*, that when the Commissioners shall put up the Tolls to let or farm, the said Commissioners may, if they think fit, appoint some person to bid for the same on their account, to the intent that such Tolls may not be let for less than an adequate value, and also that nothing in this Act shall be construed to empower the Commissioners to let to farm the said Tolls for a longer period at one time than twelve calendar months.

XXVIII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Commissioners under this Act, or any person appointed Collector of the Tolls to be taken by virtue of this Act, to demand and take every day, (such day for the purposes of this Act being computed from twelve of the clock at night, to twelve of the clock at the next succeeding night,) the several and respective Tolls directed to be taken by the Commissioners at the several and respective Toll Gates and Turnpikes, Side Bars, and Chains in, upon, across or on the sides of the Turnpike Roads, or any part thereof; and which Tolls or sums of money shall be demanded and taken as aforesaid, before any horses, cattle or carriage whatsoever, shall be permitted to pass through any Toll Gate, or Turnpike, or Side Bar or Chain, and the Tolls or sums of money to be levied and collected by virtue of this Act, are hereby vested in the Commissioners for the purposes thereof, in manner to be thereby directed.

XXIX. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Commissioners, and they are hereby empowered, from time to time, as they shall see convenient, to compound and agree, for any term not exceeding one year at any one time, with any person for the Tolls payable for any horses, cattle or beasts, or carriages passing through any of the Turnpikes or Toll Gates of the Roads under their care and management, and collected and taken under the authority of this Act; and also that the Commissioners shall have power to make such equitable arrangement with any person desiring or having occasion merely to cross, or not travelling a greater distance than three hundred yards on any Turnpike Road, and without any intention to evade the Tolls, as to them may appear just and reasonable.

Commissioners may compound with any person for tolls;

And make arrangement with any person having only to cross the road or travel a short distance thereon.

XXX. *And be it further enacted by the authority aforesaid,* That the Commissioners under this Act shall and they are hereby required to put up, or cause to be put up, and afterwards to be continued at every Toll Gate within the District, a Table painted in distinct and legible black letters, on a board with a white ground, containing at the top thereof the name of the Gate at which the same shall be put up, and also a List of all the Tolls payable at every such Gate, distinguishing severally the total amount of Tolls payable under this Act, and also a List of the several Gates which shall be wholly or partially cleared by the payment of Tolls at the Toll Gate or Bar where such Table of Tolls shall be affixed; and the said Commissioners shall also provide tickets, denoting the payment of Toll, and on such several tickets shall be specified the name of the Gate at which the same respectively shall be delivered, and also the names of the several Gates freed by such payment, one of which tickets shall be delivered gratis to the person paying the Toll, and on the production of such ticket therein-mentioned, as being cleared as aforesaid, by the payment of the Toll at the Gate where such ticket was delivered, the person producing the same, shall pass through the Gate or Gates therein-mentioned without paying any further or additional Toll.

A board containing a table of tolls, &c. to be kept up at every toll-gate.

How to be painted:

Particulars to be contained in the table;

Tickets to be provided;

What they are to contain.

XXXI. *And be it further enacted by the authority aforesaid,* That upon the death, incapacity, refusal, neglect or absconding of any collector or receiver of Tolls at any Turnpike or Weighing Machine, upon any of the Turnpike Roads, any two or more of the Commissioners, though not assembled at any meeting, by writing under their respective hands, shall and may nominate and appoint a proper person in his place, to continue until the next meeting of the Commissioners, in the stead of such collector or receiver as shall so die, become incapable, refuse, neglect or abscond; which person so nominated and appointed shall have the like power and

In case of death, &c. of Collector two Commissioners may appoint a temporary successor;

Who shall exercise the same powers and be in the same manner liable as his predecessor ;

Possession of toll-house, &c. may be taken if refused, under the authority of any Justice.

authority, and be answerable and accountable, in the same manner, in all respects, as the person who shall die, become incapable, refuse, neglect or abscond, would have had and been subject to if living ; and if any collector or receiver of Tolls as aforesaid, who shall be discharged from his office by the said Commissioners, or the wife or widow, or any of the children, family or representatives of any collector or receiver, who shall die, abscond, refuse or neglect to perform his duty, or be discharged, or any other person having the possession of any Toll House or Building, or Weighing Machine, erected by virtue of this Act, shall neglect or refuse to deliver up such possession for the space of three days after demand thereof made, and notice in writing given for that purpose by any two or more of such Commissioners, or by their Clerk, then and in any of the said cases it shall and may be lawful for any Justice of the Peace for the District, by warrant under his hand and seal, to order any Constable, or other Peace Officer for the same place, with such assistance as shall be necessary, to enter such House or Building, or Weighing Machine, in the day time, and to remove the person who shall be found therein, together with his goods, out of the same, and to put the said Commissioners, or any of their officers, in the possession thereof.

While tolls are leased Lessee to have possession of toll-house and appurtenances ;

Paying his rent, &c.

XXXII. *And be it further enacted by the authority aforesaid,* That during such time as the Tolls arising on any of the Turnpike Roads, or any part or parts thereof, shall be leased, demised or let to any person whatsoever, it shall and may be lawful to and for the lessee or farmer thereof, or such other person as he shall authorise and appoint, to occupy and enjoy the Toll House or Houses at which the said Tolls so let are to be collected and to arise, with all the appurtenances and conveniences to the same Toll House or Toll Houses belonging, for the purpose of collecting such Tolls during so long time only as such lessee or farmer shall duly and regularly pay his rent or rents, and perform the covenants, agreements and conditions of such lease, demise or letting, but no further or otherwise.

If Lessee of tolls neglect to fulfil the conditions of lease, or if rent in arrear seven days ;

Lessee may be removed by warrant of a Justice :

XXXIII. *And be it further enacted by the authority aforesaid,* That in case all or any of the Tolls, arising by virtue of this Act, shall be demised or let to farm to any person, in any manner whatsoever, and the lessee or farmer thereof shall neglect or refuse to perform the terms and conditions on which the same shall be so demised or let, or in case the rent or rents agreed to be paid by such lessee or farmer, shall be in arrear for the space of seven days next after any of the days on which the same ought to be paid, pursuant to the agreement for letting to farm thereof, or in case any such lease or agreement shall in any other manner become

void, then and in any of those cases it shall and may be lawful for any Justice of the Peace for the District, by warrant under his hand and seal, to order a Constable or other Peace Officer, with such assistance as shall be necessary, to enter upon and take possession of any Toll House or Toll Houses, Toll Gate, Bar or Chain, or Weighing Machine, and the buildings or appurtenances thereto belonging, and to remove and put out such lessee or farmer of the Tolls arising thereat respectively, or other person who shall be found therein, together with his goods, out of and from the possession of the said Toll House or Toll Houses, and from the collection of Tolls, and to put the said Commissioners, or any of them, or their new appointed officer or other person acting by or under their authority, into the possession thereof, and thereupon it shall be lawful for the said Commissioners (if they shall think fit) to vacate and determine the contract and agreement (if any) for demising or letting the said Tolls to such lessee or farmer, and the same shall be from that time utterly void to all intents and purposes, (save as to covenants or agreements,) for payment up to that time of the rent or rents thereby reserved, or other covenant or agreements on the lessee's part which shall have been holden, as if such demise or agreement had never been made, and it shall be lawful for the said Commissioners, in every such case, to demise or let to farm the said Tolls again to any other person, or cause them to be collected, as if no former demise, contract or agreement had been made relative thereto, any rule of law or right to the contrary notwithstanding.

And Commissioners be put in possession;

And Commissioners may annul the agreement.

XXXIV. *And be it further enacted by the authority aforesaid, That every Toll Collector upon the Turnpike Roads, shall place or cause to be placed on some conspicuous parts of the front of the several Toll Houses at which they shall be respectively stationed, and so that the name shall appear to public view, their Christian and surnames, painted in black on a board with a white ground, each of such letters of such name or names, to be at least two inches in length, and of a breadth in proportion, and that such board shall be and remain at such Toll House during the whole of the time that the person whose name shall be expressed thereon shall be on duty thereat; and if any Collector of the said Tolls shall not place such board, and keep the same there during the time he shall be such Collector as aforesaid, or shall demand and take a greater or less Toll from any person than he shall be authorised to do by virtue of the orders and resolutions of the Commissioners, made in pursuance of this Act, or shall demand and take a Toll from any person who shall be exempt from the payment thereof, and who shall claim such exemption, or shall refuse, or permit or suffer any person to read, or shall in any wise hinder any person from reading the inscriptions on such board, or*

Every toll Collector to keep up a board with his name painted thereon at length;

Penalty for this or any other breach of duty by Collectors of tolls.

shall refuse to tell his Christian and surname to any person who shall demand the same, on being paid the said Tolls, or any of them, or shall in answer to such demand give a false name, or shall refuse or omit to give to the person paying the Toll a ticket denoting the payment of the Tolls, and naming and specifying the Toll Gate at which such ticket has been delivered, and the Toll Gate or Toll Gates (if any) freed by such payment, or upon legal Toll being paid or tendered, shall unnecessarily detain or wilfully obstruct, hinder or prevent any passenger from passing through any Turnpike or Toll Gate, or shall make use of any scurrilous or abusive language to any Commissioner, traveller or passenger, then and in every such case, every such Toll Collector shall forfeit and pay any sum not exceeding Five Pounds for every such offence.

Lessee to have same powers of collecting tolls, &c. as a Collector appointed by the Commissioners;

XXXV. *And be it further enacted by the authority aforesaid,* That during such time as the Tolls, or any part thereof, shall be leased to any person whomsoever, it shall be lawful for the lessee or farmer thereof, or such other person as he shall by writing or writings under his hand authorise and appoint, to demand and take such Tolls so leased, demised or farmed, and to use all such means and methods for the recovery thereof, in case of non-payment or evasion, as any Collector of such Tolls appointed under this Act is authorised and empowered to use; and such lessee or farmer, or other person as aforesaid, so demanding and taking such Tolls, shall be subject to the like pains and penalties and forfeitures, and shall be liable to the like actions and prosecutions as any Collector of such Tolls appointed by the Commissioners is subject or liable.

And to be subject to the same liabilities.

Competency of witnesses respecting tolls.

XXXVI. *And be it further enacted by the authority aforesaid,* That in case any dispute, suit or litigation shall arise, touching or in any wise relating to the Tolls granted by this Act, the person appointed to collect the same, or any other person acting under the authority of the Commissioners, shall not be incompetent to give evidence in any such dispute, suit or litigation, on account of his being appointed to collect such Tolls.

Property in toll, gates, toll-houses, &c. &c. vested in the Commissioners.

XXXVII. *And be it further enacted by the authority aforesaid,* That the right, interest and property of and in all the Toll Gates and Toll Houses, Weighing Machines and other erections and buildings, lamps, bars, toll boards, direction boards, mile stones, posts, rails, fences and other things which shall have been or shall be erected and provided, in pursuance of any Act of the Legislature for improving the Turnpike Roads in this Province, with the several conveniences and appurtenances thereunto belonging, and the materials of which the same shall consist, and all

materials, tools and implements which shall be provided for making and repairing said Road, shall be vested in the Commissioners under this Act for the time being, and they are hereby authorised and empowered to apply and dispose of the same as they shall see fit.

XXXVIII. *And be it further enacted by the authority aforesaid,* That if any person shall drive any wheeled carriage upon that part of the Road between the stones or hard road and the ditch, when that part of the road is not sufficiently firm to resist the pressure of the wheels without forming ruts, further than may be necessary in passing any other vehicle, or in turning on, off or upon such road, or shall cause any injury or damage to be done to the posts, rails or fences, or shall wilfully pull down or damage any bridge, wall or any other building or erection made by the Commissioners under this Act, or repairable by them, or shall haul or draw, or cause to be hauled or drawn upon any part of the Turnpike Roads, any timber, stone or other thing which shall be carried principally or in part upon wheeled carriages or sleighs, to drag or trail upon such Road to the prejudice thereof, or if any person shall leave any waggon, cart or other carriage whatever upon such Road, without some proper person in the sole custody or care thereof, longer than may be necessary to load or unload the same, except in cases of accident, and in cases of accident for a longer time than may be necessary to remove the same, or shall lay any timber, stones, rubbish or other thing whatever upon such Road, to the prejudice, interruption and danger of any person travelling thereon, or if any person shall after having blocked or stopped any cart, waggon or other carriage in going up a hill or rising ground, cause or suffer to lie and remain on such Road, any stone or other thing with which such cart or carriage shall have been blocked or stopped, or if any person should pull down, damage, injure or destroy any lamp or lamp post put up, erected or placed in or near the side of the Turnpike Road or Toll Houses erected thereon, or shall wilfully extinguish the light of any such lamp, or if the occupier of any land or premises adjoining said Roads, shall suffer his cattle to lie about the same, or if any person shall wilfully pull down, break, injure or damage any Table of Tolls put up or fixed at any Toll Gate or Bar, or any part of the Turnpike Roads, or wilfully or designedly deface or obliterate any of the letters, figures or marks thereon, or if any person shall throw any earth, rubbish or other matter or thing into any drain, ditch, culvert or other water-course made or repairable by virtue of this Act, so as to obstruct the waters from running or draining off the Turnpike Roads, or if any person shall without being thereto authorised by the Engineer or Surveyor for the time being, shovel up, scrape together, or carry away any stones, gravel, sand or other

Penalty for driving off the hard road;

Doing damage to fences,

Or to bridge, walls or other building,

Or trailing timber, &c. along the road,

Or leaving waggon, &c. without any one in charge of it,

Or laying timber, &c. on the road,

Or leaving blocks or stones in the road.

Or injuring lamps.

Suffering cattle to lie about the road,

Damaging toll-board, or defacing the same,

Or throwing rubbish, &c. into any drain,

Or carrying away soil, &c. from the road,

Or digging holes, materials, dirt or soil, from any part of the Turnpike Roads, or dig any holes or ditches on the allowances for the same, or if any person shall in any manner wilfully prevent any other person from passing him, or any carriage under his care upon such Roads, every person offending in any of the cases aforesaid, shall forfeit and pay a sum not exceeding Forty Shillings for such offence.

Maliciously throwing down, &c. gates or other fence belonging to the turnpikes, a misdemeanor. XXXIX. *And be it further enacted by the authority aforesaid,* That if any person shall unlawfully and maliciously throw down, level or otherwise destroy, wholly or in part, any Turnpike Gate, or any Chain, Rail, Post, Bar or other fence belonging to any Turnpike Gate or Bar, set up or erected to prevent passengers passing by without paying the Toll directed to be paid by the Commissioners under this Act, every such offender shall be deemed guilty of a misdemeanor, and being convicted thereof shall be punished accordingly.

Exception from tolls: XL. *And be it further enacted by the authority aforesaid,* That no Toll shall be demanded or taken by virtue of this Act, for any horses or carriages attending the Lieutenant Governor of the Province for the time being, or for the horse of any officer or soldier on the march or on duty, or for any horse or other beast, or any cart, carriage or waggon employed in conveying or carrying the arms or baggage of any such officer or soldier, or in carrying or conveying any sick, disabled or wounded officer or soldier, or for any waggon, cart or other carriage, or the horse, horses or beasts drawing the same, employed in conveying any ordnance or barrack, or Commissariat or other public stores of or belonging to Her Majesty, Her Heirs or Successors, for the use of Her Majesty's forces: *Provided always,* that such waggon, cart or other carriage, and such horse or other beast so employed in carrying and conveying such officers or soldiers, arms, munitions or stores as aforesaid shall belong to Her Majesty, or be impressed for the performance of such services, or for any horse or carriage that shall only cross any Turnpike Road, and not pass above one hundred yards thereon, or for any horse, beast or other cattle or carriage employed in carrying or conveying, having been employed only in carrying or conveying on the same day any dung, soil or compost, or manure for improving lands, or any ploughs, harrows or implements of husbandry, unless laden also with some other thing not hereby exempted from Toll, or any hay, straw, fodder for cattle, and corn in the straw which has grown or arisen on the land or ground in the occupation of the owner of any such hay, straw, fodder, or corn in the straw, potatoes or other agricultural produce, and which has not been bought, sold or disposed of, nor is going to be sold or disposed of, or for any horse or other beast employed

Lieutenant Governor,

Officer or Soldier on duty,

Waggons, &c. carrying their baggage or arms,

Or wounded Officer or Soldier,

Or public stores for the use of Her Majesty's Forces,

Provided that such waggon &c. belong to Her Majesty;

Or is impressed for such service;

Or for any Horse, &c. carrying compost;

Or implements of husbandry;

Or Hay, &c. under certain circumstances;

in husbandry, going to or returning from plough or harrow, or to or from pasture or watering place, or going to or returning from being shod or farried, such horse or other beast not going or returning on those occasions more than one mile on the Turnpike Road, or of or from any person or persons going to or returning from his, her or their usual place of religious worship on Sundays, or from any persons attending funerals, or from any waggon, cart or other carriage employed at days wages by the Commissioners, in carrying or conveying materials for making or repairing the Turnpike Roads, or from the Engineer or Surveyor, or from the Commissioners appointed under this Act, when personally passing through any Turnpike, Toll Gate, Side Bar or Chain, upon or across any of the Turnpike Roads in the District.

Or for any Horse, &c. going or returning while employed in husbandry ;
Or from persons going to or returning from public worship on Sundays ;
Or funerals ;
Or from waggons, &c. employed at days wages for the roads ;
Or from Engineer or Commissioners when personally passing.

XLII. And be it further enacted by the authority aforesaid, That if any person shall claim or take the benefit of the exemption mentioned in this Act, not being entitled to the same, every such person shall for every such offence forfeit any sum not exceeding Forty Shillings, and in all cases the proof of exemption shall be upon the person claiming the same.

Penalty on persons taking the exemption who are not entitled thereto.

XLII. And be it further enacted by the authority aforesaid, That if any person shall with any horse, cattle, beast or carriage, go off or pass from any Turnpike Road through or over any land or ground near or adjoining thereto, not being a public highway, and such person not being the owner or occupier or servant, or one of the family of the owner or occupier of such land or ground, with the intent to evade the payment of the Tolls directed to be taken by any order of the Commissioners under this Act, or if any owner or occupier of such land, shall knowingly or willingly permit any person, except as aforesaid, with any horse, cattle or beast, or carriage whatsoever, to go or pass through or over such land or ground, with intent to evade any such Toll, or if any person shall give or receive from any person other than the Collector of the Tolls, or shall forge, counterfeit or alter any note or ticket, directed to be given with intent to evade the payment of the Tolls, or any part thereof, or if any person shall fraudulently or forcibly pass through any such Toll Gate, with any horse, cattle, beast or carriage, or shall leave upon the said Road any horse, cattle, beast or carriage whatsoever, by reason whereof the payment of any tolls or duties shall be evaded or lessened, or shall take off, or cause to be taken off, any horse or other beast or cattle from any carriage either before or after having passed through any Toll Gate, or having passed through any Toll Gate, shall afterwards add or put any horse or

Penalty for evading tolls ;
Or knowingly permitting any person to cross land off the road to evade tolls ;
Or counterfeiting tickets ;
Or forcibly passing with any horse &c. through a toll gate ;
Or otherwise lessening the tolls or evading the same.

other beast to any such carriage, and draw therewith upon any of the Turnpike Roads, so as to increase the number of horses or other beasts drawing the said carriage, after the same shall have passed through any Toll Gate, whereby the payment of all or any of the Tolls may be evaded or lessened, or if any person shall do any other act whatsoever, in order and with evident intent to evade the payment of all or any of the Tolls, and whereby the same shall be evaded or lessened, every such person shall forfeit and pay for every such offence, any sum not exceeding Forty Shillings.

Commissioners may make a temporary road, under certain exceptions, over adjoining lands till the road be repaired, &c. making recompense;

XLIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Commissioners to make, or cause to be made, a road through the grounds adjoining any ruinous or narrow part, or any part making and not completed of any Turnpike Road, (not being the site or ground whereon any buildings stand, nor being an orchard, yard, garden, planted walk or avenue, or any ground planted as an ornament or shelter for an house, or any enclosed ground set apart as a nursery for trees,) to be made use of by all passengers, cattle and carriages, as a public highway, whilst the old road is repairing or widening, or a new road making, and till such time as it shall be convenient for passengers and carriages to pass along the same, making such recompense to the owners and occupiers of such private grounds respectively for the damage they shall or may thereby sustain, as shall be adjudged reasonable by the Commissioners; and in case of any difference concerning such damages between such owners or occupiers and such Commissioners, then it shall and may be lawful for any two or more Justices of the Peace, acting in and for the District, on fourteen days notice in writing being given by either party to the other, to settle, adjudge and finally determine what recompense shall be made to such owners and occupiers for the damages they shall have sustained as aforesaid.

If recompense disputed, two Justices may determine the same.

Penalty on forcibly opposing Collector in the execution of his duty.

XLIV. *And be it further enacted by the authority aforesaid,* That in case any person shall resist, or make forcible opposition against any Collector of the Tolls in the execution of his office, every such person offending therein, shall for every such offence forfeit any sum not exceeding Five Pounds, at the discretion of the Justices of the Peace before whom he shall be convicted.

Vacancy by Trustees neglecting to attend meetings;

XLV. *And be it further enacted by the authority aforesaid,* That if any of the present Trustees shall neglect to attend three successive meetings of the Commission, after due notice of such meetings shall have been personally served upon such Trustees, unless they shall have been pre-

vented by sickness, or absence from the District, he or they shall be deemed and taken to have vacated their office of Trustee, and upon a representation of such absence being made to the Governor, Lieutenant Governor, or person administering the Government, by a majority of the Trustees, it shall and may be the duty of the said Governor, Lieutenant Governor, or person administering the Government, to nominate and appoint another or other Trustee or Trustees, in the place of such Trustee or Trustees neglecting to attend as aforesaid. To be filled by Governor.

XLVI. *And be it further enacted by the authority aforesaid,* That no cart or waggon, travelling on any of the Turnpike Roads, shall be driven by any person who shall not be of the full age of thirteen years, under a penalty not exceeding ten shillings, to be paid by the owner of such cart or waggon; and if the driver of any carriage whatsoever, on any part of the Turnpike Roads, shall by negligence or wilful misbehaviour, cause any hurt or damage to any person or carriage passing, or being upon such road, or shall quit the road and walk on the footpath, or wilfully be at such distance from such carriage, or in such a situation whilst it shall be passing upon such Turnpike Road, that he cannot have the direction or government of the horses or cattle drawing the same, or if any person shall by negligence or misbehaviour prevent, hinder or interrupt the free passage of any carriage, or of Her Majesty's Subjects on any of the Turnpike Roads, every such driver so offending in any of the cases aforesaid, and being convicted of any such offence, either by his own confession, the view of a Justice of the Peace, or by the oath of one or more credible witness or witnesses before any Justice of the Peace for the District, shall for every such offence forfeit any sum not exceeding Forty Shillings, and in default of payment, be committed to the common Gaol, for any time not exceeding one month, unless such forfeiture shall be sooner paid, and every such driver offending in either of the said cases, shall and may by the authority of this Act, with or without any warrant, be apprehended by any person who shall see such offence committed, and shall be conveyed before some Justice of the Peace, to be dealt with according to law. No waggon, &c. to be driven by a person under 13 years of age; Penalty on negligent driving; Fine; Imprisonment in default of payment.

XLVII. *And be it further enacted by the authority aforesaid,* That if any person shall erect, make, or cause to be erected and made, any dwelling house, building or fence, on any part of the allowance of one chain for the Turnpike Roads, or shall make any drain, gutter, sink or water-course, without the consent of the Commissioners first had and obtained, across or otherwise break up or injure the surface of any such Road, or of any part thereof, every person so offending shall forfeit and pay for every Penalty for obstructing the road by buildings; Or making drains, &c.

Commissioners may remove buildings, &c. Or fill up drains, &c. at party's expense;

Two Justices may levy the penalty and these expenses.

such offence, any sum not exceeding Forty Shillings; and it shall be lawful for the Commissioners under this Act, to cause such dwelling house or other building, fence, drain, gutter, sink or water-course, to be taken down or filled up at the expense of the person to whom the same shall belong; and it shall and may be lawful for any two or more Justices of the Peace of the District, upon proof thereof to them made upon oath, to levy as well the expenses of taking down or filling up such dwelling house or other building, drain or other encroachments as aforesaid, as the several and respective penalties hereby imposed, by distress and sale of the offender's goods and chattels, rendering the overplus (if any) to the owner on demand.

No person retailing wine, &c. to hold office under the Commissioners.

XLVIII. *And be it further enacted by the authority aforesaid,* That no person shall be capable of holding any place of profit under the Commissioners of the Turnpike Roads, who shall sell any Wines, Ale or Spirituous Liquors, or provisions by retail.

All persons living within half a mile of either side these roads, required to commute their statute labour at 2s. 6d. per diem;

Town Clerk required to deliver lists to Commissioner's Clerk of persons liable to such commutation;

Ten shillings allowed Town Clerk;

Commissioners may demand such commutation;

And on refusal two Justices may levy the same by distress.

XLIX. *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 of either side of the Roads, placed by this Act under the care and management of the Commissioners, 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 six-pence per day for every day for which they are assessed; and the Town Clerks for the several Townships in which the said Roads are situate, are hereby required to deliver to the Clerk of the Commissioners, on or previous to the first day of May in each and every year, true and perfect lists, in writing, of the names of the several persons within such Township who are liable to pay such commutation, together with the number of days, he, she or they are assessed, for which lists each Town Clerk, upon delivering the same, shall be entitled to demand and receive the sum of ten shillings from the Clerk of the Commissioners, to be paid out of the funds of the Trust; and the Commissioners shall have full power and authority, and are hereby required to demand and receive, or cause to be demanded and received, the amount of commutation for statute labour to be paid under this Act; and in case any person shall neglect or refuse to pay the same, for the space of fourteen days after it shall be so demanded, it shall and may be lawful for any two or more Justices of the Peace of the District, upon proof thereof to them made upon oath, to levy the same by distress and sale of the goods and chattels of the person so neglecting or refusing; and the money so arising from

such commutation, shall be applied by the Commissioners for the purposes of this Act, for repairing and maintaining the Turnpike Roads.

L. *And be it further enacted by the authority aforesaid, That if any* Penalty on Town Clerk for not furnishing lists.
 Town Clerk shall fail or neglect to furnish the list aforesaid, by the time before specified, he shall forfeit and pay for every such neglect, a sum not exceeding Five Pounds.

LI. *And be it further enacted by the authority aforesaid, That so much* 5th and 28th sections 1st Victoria, ch. 21, repealed as far as relates to the operation of this Act.
 of the fifth and twenty-eighth clauses of an Act passed in the first year of the reign of Her present Majesty Queen Victoria, entitled, "An Act to alter and amend sundry Acts, regulating the appointment and duties of Township officers," as relates to the elections of overseers of highways, and the wilful stopping up of any highway or road in any Township, be and the same are hereby repealed, so far as relates to the operation of this Act.

LII. *And be it further enacted by the authority aforesaid, That all the* Money collected at Toll Gates to be paid to Commissioners;
 money collected at the different Toll Gates on each Road, shall be paid by the Collector to the Commissioners of such Road, when required by them, and that it shall be the duty of the said Commissioners, and they are hereby required, on or before the first day of January and the first day of July, in each and every year, to pay over to Her Majesty's Receiver General; such part of the said Tolls as shall amount to the interest of the principal money borrowed and expended in Macadamizing said Roads, to be by him applied to the payment of the interest on the said loans as it becomes due: *Provided always,* that the Commissioners shall state the amount paid on account of each Road respectively, and the money so paid shall be applied only to the Debentures issued for such Roads. Commissioners to pay half yearly to Receiver General the interest on loan for Macadamizing the roads;

LIII. *And whereas* the Commissioners are authorised and empowered, from and after the expiration of eleven years from the passing of this Act, to raise such Tolls on the said Roads as will enable them (besides keeping the same in repair) to pay the interest on the said loans, and redeem the balance of the principal sum, within a period of not less than twenty-six years: *Be it therefore further enacted by the authority aforesaid, That the* Commissioners to pay to Receiver General half yearly moneys raised to redeem debentures.
 said Commissioners are hereby required to pay over the same to Her Majesty's Receiver General, at least once in every six months, at the periods before-mentioned, to be by him applied to the purpose and in the manner before specified.

Lieut. Governor to fill vacancies in the Board of Commissioners.

LIV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor, or person administering the Government of this Province, from time to time, 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 Commissioners, by death, resignation or otherwise.

All persons who have been heretofore employed by the Trustees to be henceforth in all respects accountable to Board of Commissioners ;

LV. *And be it further enacted by the authority aforesaid,* That all persons who shall have been employed by the Trustees under any Act for Macadamizing the Roads, who shall have received any Tolls or other money for the purposes of such Act, which may have been repealed, or who may have or shall have had in their custody or possession any money, books, papers, writings or other things relating to any such Turnpike Road, shall account for and pay and deliver over the same, and every part thereof, to the Commissioners appointed under this Act, in like manner and under the like penalties as the several Collectors and other persons receiving any money by virtue of this Act, are by the said Act required to pay or account for the same; and it shall and may be lawful for the Commissioners appointed under and by virtue of this Act, and they are hereby empowered and required to carry into effect all such parts, provisions and enactments of the before-recited Acts of the third, sixth and seventh years of the reign of His late Majesty William the Fourth, and of the first year of the reign of Her present Majesty Victoria, for Macadamizing the Roads, as shall not have been repealed.

Commissioners empowered to carry into effect such parts of the several statutes before-mentioned as have not been repealed.

LVI. *And whereas* several of the Trustees appointed by the above recited Acts, have for the purposes of such Acts become personally responsible for large sums of money, in anticipation of the sale of Debentures, which sale has not yet been effected, and which sums of money have actually been expended in the improvement of the Turnpike Roads: *Be it therefore further enacted by the authority aforesaid,* That the Commissioners under this Act, shall out of the first money arising from the sale of such Debentures, pay and discharge the said sums of money, and so soon as the same shall have been paid by the said Commissioners, the said Trustees shall be and they are hereby declared to be fully exonerated and discharged from all personal responsibility respecting such sums as aforesaid.

Commissioners to keep certain roads within the City of Toronto, and its Liberties, in repair ;

LVII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Commissioners under this Act, and they are hereby required to maintain, keep in repair, and retain under their care and management, all such portions of the Turnpike Roads, situate within

the Liberties and City of Toronto, as have been made by the Trustees under and by virtue of any of the before-recited Acts for Macadamizing the Roads; and it shall not be compulsory upon the said Commissioners to remove their Toll Gates without the Liberties of the said City, until such times as the Corporation shall assume the payment of such parts of the loan and interest as have been expended by the Trustees in constructing the said portions of Road, and shall further undertake to keep the same in repair.

And need not remove their toll-gates without the liberties of the City until the Corporation assume the payment of part of the debt.

LVIII. *And be it further enacted by the authority aforesaid,* That all penalties imposed by this Act, exceeding Five Pounds, may be sued for in any of Her Majesty's Courts of Record in this Province, and that every prosecutor or informer shall sue for and recover any forfeiture or penalty imposed by this Act, in the manner hereinafter mentioned, (that is to say): if the same shall exceed the sum of Five Pounds, it shall be recoverable by action of debt in any of Her Majesty's Courts of Record, in which it shall be sufficient to declare that the defendant is indebted to plaintiff in the sum of ———, being forfeited by an Act passed in the third year of the reign of Her Majesty Queen Victoria, entitled, "An Act to repeal, alter and amend the laws now in force for the regulation of the several Macadamized Roads within this Province," and the plaintiff, if he recover, shall have full costs: *Provided* that there shall not be more than one recovery for the same offence, and that twenty-one days notice be given to the party offending previous to the commencement of such action, and that the same be brought and commenced within three calendar months after the offence for which such action is brought shall have been committed; and if the said penalty or forfeiture shall not exceed the sum of Five Pounds, the same shall be recoverable only by information before two or more Justices of the Peace, and no writ of *certiorari* to remove the same shall be allowed.

All penalties over £5, may be recovered in any Court of record;

Made of proceeding to recover penalties:

Notice to offenders;

Action to be brought within three months;

Penalty under £5, recoverable before two Justices.

LIX. *And be it further enacted by the authority aforesaid,* That when any distress shall be made for any sum or sums to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same, be deemed a trespasser or trespassers on account of any default or want of form in any proceeding relating thereto, nor shall the party or parties be deemed a trespasser or trespassers *ab-initio*, on account of any irregularity which shall be afterwards done in making the distress, but the person or persons aggrieved by such irregularity, may recover the satisfaction for the special damage in an action on the case: *Provided always,* that no plaintiff or plaintiffs shall recover in any action for such irregularity, trespass or wrongful proceedings, if tender of suffi-

No distress unlawful for want of form in proceeding;

Action on the case for irregularity;

Tender of amends;

cient amend shall be made by or on behalf of the party or parties who shall have committed, or cause to be committed, any such irregularity or wrongful proceedings before such action brought; and in case no such tender shall have been made, it shall and may be lawful for the defendant in any such action, by leave of the Court where such action shall depend, at any time before issue joined, to pay into Court such sum of money as he or they see fit, whereupon such proceedings, orders and judgments shall be had, made and given in and by such Court, as in any other actions where the defendant is allowed to pay money into the Court.

If no tender defendant may pay money into Court.

Limitation of action for any thing done in pursuance of this Act;

Venue;

Defendant may plead general issue;

Treble costs given to defendant in certain cases.

LX. *And be it further enacted by the authority aforesaid,* That if any action or suit shall be commenced against any person or persons, for any thing done in pursuance of this Act, then and in every such case such action or suit shall be commenced or prosecuted within three months after the fact committed, and not afterward, and the same or every such action or suit shall be brought in the District and not elsewhere, and the defendant in every such action or suit, shall and may plead the general issue, and at the trial thereof give this Act and the special matter in evidence; and if the matter or thing complained of, shall appear to have been done under the authority and in the execution of this Act, or if any such action or suit shall have been brought after the time limited for bringing the same, or be brought and had in any other District or place, then as afore-mentioned the Jury shall find for the defendant or defendants; and if the plaintiff shall become non-suit, or discontinue his action, after the defendant shall have appeared, or have a verdict against him, or if upon demurrer Judgment shall be given against the plaintiff, the defendant shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases by law.

Penalties under £5, on conviction of parties before two Justices;

To be levied with costs by distress and sale of goods;

Overplus;

LXI. *And be it further enacted by the authority aforesaid,* That all penalties and forfeitures and fines, by this Act inflicted or authorised to be imposed, not exceeding Five Pounds, (the manner of levying and recovering of which is not herein otherwise directed,) shall upon proof and conviction of the offence respectively, before any two or more Justices of the Peace for the District, either by confession of the party offending, or by the oath of any credible witness, (which oath every Justice is in every such case authorised to administer,) be levied, together with the costs attending the information and conviction, by distress and sale of the goods and chattels of the party offending, by warrant under the hand and seal of such Justices, which warrant they are hereby empowered and required to grant, and the overplus (if any) after such penalties, forfeit-

ures and fines, and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner of such goods and chattels; and in case such fines, penalties and forfeitures, shall not be forthwith paid upon conviction, then it shall be lawful for such Justices to order the offender so convicted, to be detained and kept in safe custody, until return can be conveniently made, unless the offender shall give sufficient security to the satisfaction of such Justices for his appearance before such Justices, on such day as shall be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking such security, and which security such Justices are thereby empowered to take, by way of recognizance or otherwise; but if upon the return of such warrant, it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for such Justices of the Peace as aforesaid, and they are hereby authorised and required, by warrant under their hands and seals, to cause such offender to be committed to the common Gaol of the District, there to remain without bail or mainprize, for any time not exceeding one calendar month, unless such penalties, fines and forfeitures, and all reasonable charge attending the same, shall be sooner paid or satisfied.

If penalties not paid on conviction;

Offender may be kept in custody till he gives security to appear;

If no sufficient distress, offender to be imprisoned.

LXII. *And be it further enacted by the authority aforesaid,* That no person shall or may be convicted of any offence contrary to the provisions of this Act, in a summary way, after the expiration of six months from the time when any such offence shall or may have been committed.

No person to be convicted summarily after the expiration of six months.

LXIII. *And be it further enacted by the authority aforesaid,* That all moneys arising from such penalties, forfeitures and fines, as are inflicted or authorised to be imposed by this Act, shall be from time to time paid to the Commissioners, to be by them applied in repairing and maintaining the Turnpike Roads, and disposed of for the purposes of this Act.

Moneys arising from fines, &c. to be paid to Commissioners:

How applied.

AN ESTIMATE of the expense of maintaining the Turnpike Road on ——— Road, in the ——— District, between the first day of November and the thirty-first day of October.

	£	s.	D.
Manual labour			
Team labour and carriage			
Materials delivered on the road, exclusive of carriage.....			
Land purchased			
Damages done in obtaining materials			
Tradesmen's bills.....			
Salaries.....			
Law charges			
Interest of debt			
Incidental expenses.....			
	£		

State the length of the road, and the number of miles finished ; the rate of toll per mile ; description and quality of materials used ; with the price and damages, &c. paid for by the ton or yard.—State the price.

CHAP. LIV.

AN ACT to provide for the relief of William Kingsmill and William Chisholm, Esquires.

[Passed 10th February, 1840.]

WHEREAS William Chisholm, Esquire, Collector of Customs for the Port of Oakville, in the District of Gore, was absent on Militia duty during the Fall of eighteen hundred and thirty-seven, and Spring of eighteen hundred and thirty-eight, and the Deputy of the said William Chisholm was also absent on the same duty, both of them having promptly stepped forward to crush the unnatural Rebellion of December eighteen hundred and thirty-seven, in consequence of which absence the returns of the Duties received during these periods were omitted to be made within the time specified by the seventh section of the fourth George the Fourth, Chapter the eleventh ; *And whereas* William Kingsmill, Esquire, Collector of the Port of Port Hope, has been and still is absent on Militia duty, in defence of the Province, and his office being performed by Deputy, Preamble.