

*Laws of His Majesty's Province of Upper Canada*, passed in the year 1830. York: Robert Stanton, 1830.

11 George IV – Chapter 12

**An Act to afford further aid to complete the Burlington Bay Canal, and for other purposes relative to the said Canal. Passed 6th March, 1830.**

Whereas since the opening of the Navigation of the Burlington Canal great and manifest advantages have been derived by the Province from that work: And whereas its completion would open one of the most spacious Harbours on Lake Ontario; afford a safe and commodious Wintering Place to Vessels Navigating that Lake; at all times free from Ice, and give increased energy to the Agricultural and Commercial interests of the Province: And whereas the Rates and Tolls now Levied and Collected on the said Canal are generally considered too high: And whereas, from the experience of the two last years, there is good reason to expect that, although a moderate reduction were made in the said Rates and Tolls, a Sum would be realized, annually, sufficient in amount to pay the annual Interest, and gradually to liquidate the Principal of any Loan that might be found necessary, in order to complete the said Navigation:—Be it therefore enacted, by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of, and under the authority of; an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the passing of this Act, the Second Clause of an Act passed in the Fourth Session of the Eight Parliament of this Province, entitled, "An Act to Amend, and Extend the provisions of an Act passed in the last Session of Parliament, entitled, 'An Act to provide for constructing a Navigable Canal between Burlington Bay and Lake Ontario'"; and the Eight Clause of an Act passed in the Fourth Session of the Ninth Parliament, entitled, "An Act to provide for the Valuation of the Labor and Materials applied in constructing the Harbor at Burlington Bay, and for other purposes relating to the said Harbour," shall be, and the same are hereby repealed.

II. And be it further enacted by the authority aforesaid, That instead of the Tolls and Dues enumerated in a Schedule annexed to, and authorized to be Levied and Collected by virtue of the Provisions of an Act passed in the Third Session of the Eighth Parliament of this Province, entitled, "An Act to provide for constructing a Navigable Canal between Burlington Bay and Lake Ontario," the Tolls and dues enumerated in the following Schedule, shall be Levied and Collected on the said Canal, and continued until such time as the Loan hereinafter authorized to be raised for the completion of the same, and also the Interest on the said Loan, shall have been repaid: Provided always, That the said Tolls and Dues authorized to be Levied and Collected by virtue of this Act, shall continue to be so Levied and Collected after the said Loan and Interest shall have been repaid, and until a further sum,

sufficient in amount to repay all monies that have been advanced by this Province for the use of the said Canal, shall have been also raised and collected, and paid into the Provincial Treasury; and that nothing in this Act contained shall be implied to Repeal or Suspend the operation of the Seventh Clause of an Act passed in the Fourth Session of the last Parliament, entitled, "An Act to provide for the Valuation of the Labor and Materials applied in constructing the Harbor at Burlington Bay, and for other purposes relating to the said Harbour."

#### Schedule

##### Of Tolls and Rates Payable under the authority of this Act.

Salt, and Plaster of Paris, per Barrel—Six Pence,—Currency.

Flour, per Barrel—Four Pence Half-penny.

Wheat, and Pease, per Bushel—Three Farthings.

Beef, Pork, Butter, Lard, Whiskey, Bees-Wax, and Herrings, per Barrel—Nine Pence.

Beef, Pork, Butter, Lard, Whiskey, Bees-Wax, and Herrings, per Keg—Four Pence Half-penny.

Ploughs, each—Four Pence Half-penny.

Shingles, per M—Two Pence.

Dry Goods, per Cwt.—Five Pence.

Oil, per Barrel—One Shilling.

Ashes, per Barrel—One Shilling and Three Pence.

Boards, per hundred pieces—One Shilling and Three Pence.

Staves, Standard, per M—Ten Shillings.

III. And be it further enacted by the authority aforesaid, That Apples, Cider, Potatoes, and all other Roots, Vegetables, and Fruits, and also all articles not enumerated to pay, in proportion to the above rates, shall be subject to such Tolls and Dues as may be established by the Commissioners appointed by virtue of this Act.

IV. And be it further enacted by the authority aforesaid, That the Rates, Tolls and Dues authorized to be Levied and Collected under the authority of this Act shall not be lowered

until after the said Loan, and the Interest thereon, shall have been paid unto the person or persons who may advance the same, on the security of the said Rates, Tolls and Dues.

V. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to authorize and direct the Receiver General to raise by Loan, at a rate of Interest not exceeding six per centum per annum, and as much lower as can be obtained, from any person or persons, Body Politic or Corporate, who may be willing to advance the same, upon the Credit of the Government Bills or Debentures, authorized to be issued as hereinafter mentioned, such Sums not exceeding in the whole Five Thousand Pounds, as may be required to complete the Works and Navigation of the said Canal.

VI. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Receiver General for the time being, to cause or direct any number of Debentures to be made out for such Sum or Sums of Money, not exceeding in the whole the said Sum of Five Thousand Pounds, as any person or persons, bodies politic or corporate, shall agree to advance on the credit of the Debentures; which Debentures shall be prepared and made out in such method and form as His Majesty's Receiver General shall think most safe and convenient, and shall be signed by him; and that for each Loan or Advance three several Debentures shall issue at the same time, bearing date the day on which the same shall be actually issued, and being each for the payment of one-third of the Sum so advanced, and out of the said Rates, Tolls, and Dues, and no other, at the expiration of periods not shorter than three, five, and seven years respectively, with Interest, according to the rate at which such Loan shall be negotiated, from the date of such Debenture, until the same shall be discharged.

VII. And be it further enacted by the authority aforesaid, That all such Debentures, with the Interest thereon, and all charges incident to, or attending the same, shall be, and are hereby charged and chargeable upon, and shall be repaid and borne out of the Monies that shall come into the hands of the Receiver General of this Province, arising out of the Rates, Tolls, and Dues hereafter to be Levied and Collected upon the Burlington Canal, and from no other source.

VIII. And be it further enacted by the authority aforesaid, That the whole of the net proceeds arising out of the Tolls, Rates, and Dues, hereafter to be Raised, Levied, and Collected on the said Canal, shall be applied to the purpose of redeeming the Loan authorized to be made by this Act, until it shall be liquidated, with the Interest thereon: Provided always, That it shall be lawful for the Collector of the said Tolls, to receive the same percentage and dues which have hitherto been paid him out of the Tolls, Rates and Dues so collected on the said Canal.

IX. And be it further enacted by the authority aforesaid, That all and every the provisions contained in a certain Act of the Parliament of this Province, passed in the Seventh Year of His Majesty's Reign, entitled, "An Act to authorize the Government to borrow a certain Sum

of Money upon Debenture, to be Loaned to the Welland Canal Company,” respecting the submitting to the Legislature, accounts of such Debentures, and the Interest paid thereon, and the expences attending the same; the payment of Interest to holders of such Debentures; paying off and cancelling the said Debentures; and also the provision made in the seventh Section of the said Act, for punishing the Forging of any Debenture thereby authorized to be issued, or of any matter or thing relating thereto, or the knowingly uttering any such Forged Debenture, or other matter as aforesaid, shall apply to and be in force in respect to the Debentures which shall be issued according to this Act.

X. And be it further enacted by the authority aforesaid, That the Sum of Money herein authorized to be raised by Loan shall not be subject to any deduction of Poundage for the Receiver General of this Province.

XI. And be it further enacted by the authority aforesaid, That William Chisholm, Alexander Brown, John Aikman, Joshua Freeman, Ashel Davis, William Applegarth, and William B. Sheldon, be Commissioners for the purpose of receiving Plans, Tenders, and Estimates, and of Contracting for, and Superintending the Work and Labor necessary to be done and performed in order to complete, secure, and make permanent, the Burlington Canal, with the Banks, Piers, and Excavations thereof; and to them shall be paid, in discharge of such Warrant or Warrants as shall be issued for that purpose by the Governor, Lieutenant Governor, or person administering the Government of this Province, the sums required to be expended by the authority of this Act, for the purpose of completing the said Canal:— Provided always, That the Sums so applied shall be accounted for to His Majesty through the Lords Commissioners of His Majesty’s Treasury, in such manner and form as Majesty shall be pleased to direct; and that if any of the persons hereby nominated and appointed Commissioners shall die, or refuse to act as such Commissioner under the authority of this Act, it shall be in the power of the Governor, Lieutenant Governor, or Person Administering the Government to appoint another Commissioner or Commissioners in the place of him or them who shall die, or refuse to Act, as aforesaid.

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

XIII. And be it further enacted by the authority aforesaid, That after the Commissioners have met, and decided upon the measures necessary to be taken to place the Canal in a complete and permanent state of repair, and agreed upon their plan of operations, they shall then cause to be made out, an Estimate of the Work and Labour, and Specifications, accurately describing the manner in which it is to be performed, and shall let the whole out by Contract at once, either in one or more Contracts, at their discretion, and shall publicly Advertise the said Contract or Contracts in the Newspapers, stating also the time and place

at which Sealed Proposals will be received, and all Proposals shall be for a Sum certain, and no proposition which is not definite and certain, or which contains any alternative condition or limitation as to such price, shall be received or acted upon.

XIV. And be it further enacted by the authority aforesaid, That the person or persons whose Tender or Tenders shall be accepted, shall give Security to the satisfaction of the said Commissioners, and also to the satisfaction of the Governor, Lieutenant Governor, or Person Administering the Government of this Province, conditioned for the due perance of the Contract or Contracts to be entered into, which Contract or Contracts shall be drawn by His Majesty's Attorney General for the time being, in strict conformity of the Provisions of this Act, and shall positively include all the Work and Labor to be done and performed, accidents, casualties, and all contingencies whatsoever, being at the sole risk of the Contractor or Contractors; and three copies of all Contracts to be entered into shall be executed by the parties, one of which shall be deposited with the Receiver General, and another shall remain with the Canal Commissioners, and the Commissioners, after having obtained ample and undoubted security for the due completion of the work, may draw upon the Receiver General from time to time, and order payment to be made to the Contractor or Contractors, in sums corresponding in amount to the progress made in the work, in order that the said Contractor or Contractors may not be under the necessity of employing Workmen and Labourers at a disadvantage, or of taking Credit at Stores at higher prices than Cash Price, for lack of means..

XV. And be it further enacted by the authority aforesaid, That in the Contract or Contracts to be entered into, three men shall be named by the Contractor or Contractors, and the Commissioners indifferently, who shall be called upon to act as Umpires, in case any disputes should arise during the performance of the Contract or Contracts, or at the close thereof, between the Commissioners and Contractor or Contractors, as to whether the work had been done and completed according to the Bargain; and the decision of any two of the three so named being given in writing, shall be final and conclusive, and may not be appealed from.

XVI. And be it further enacted by the authority aforesaid, That a majority of the Board of Commissioners shall be a quorum to transact Canal business, and may adjourn from time to time, and fix the time and place of future Meetings, and that they choose one of their Members to be their President, whose duty it shall be to call a Meeting of the Board on the request, in writing, of a Commissioner, and without such request whenever he shall deem it expedient; and if it shall be found necessary after the Contract or Contracts for the completion of the Canal have been entered into, for the Commissioners to make other extraordinary repairs or improvements in cases which could not have been easily foreseen, and included in the said Contract or Contracts, they are authorized to do so, and the Board shall from to time assign to each Commissioner in succession the important duty of personally inspecting and taking special daily charge of the undertaking.

XVII. And be it further enacted by the authority aforesaid, That it shall be the duty of the said Canal Commissioners to account and settle with the Receiver General on or before the first day of January in each year, for all monies received by them, or paid to Contractors by their order, under this Act; and such statement shall specify the sums, respectively, paid to all Contractors, Engineers and Servants employed on the Canal, and such statement or settlement shall be by the Receiver General reported to His Excellency the Lieutenant Governor, to be by him laid before the Legislature.

XVIII. And be it further enacted by the authority aforesaid, That at the close of the Navigation in each year, the said Commissioners shall annually report to His Excellency the Lieutenant Governor, or to the person Administering the Government, stating the condition and progress of the Canal, and all the works and improvements connected therewith, and shall recommend such measures in relation thereto as they may deem the public interest to require.

XIX. And be it further enacted by the authority aforesaid, That the said Commissioners shall appoint a fit and discreet person, as Superintendant of Works, with a moderate annual recompense, whose duty it shall be to attend constantly at the Canal, to see that the Piers are filled with a suitable quality of Stone; the Piles properly driven; the excavation carried to the proper width and depth; and the work done and performed in all respects according to Contract; and the Superintendant shall also act as Secretary to the Board of Commissioners, and keep a Book or Books, in which their Meetings and Adjournments, and all their transactions in the business of the Canal shall be duly entered, and in which all Receipts and Expenditures of Money shall be set down; and no Account shall be paid by any Officer or Servant employed on the Canal, until the same shall have been regularly inspected and audited by the Board; and it shall be the duty of the Superintendant to file and preserve the Accounts that are thus audited, and they shall be transmitted to the Receiver General by the Commissioners, at the period of annual settlement, for the inspection of the Legislature, if required.

XX. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Collector of the said Tolls and Dues, imposed by virtue of this Act, to appoint a Deputy to collect the same.

XXI. And be it further enacted by the authority aforesaid, That the Ninth Clause of an Act passed in the Third Session of the Eighth Parliament of this Province, entitled, "An Act to provide for constructing a Navigable Canal between Burlington Bay and Lake Ontario," shall be, and the same is hereby repealed.