

*Laws of His Majesty's Province of Upper Canada*, passed in the year 1837. York: Robert Stanton, 1837.

7 William IV – Chapter 66

**An Act granting to His Majesty a sum of money, to be raised by Debenture, for the Improvement of the Navigation of the River Trent. Passed 4th March, 1837.**

Whereas it is highly important to the Agricultural and Commercial interests of this Province, that a line of communication should be formed between the Waters of the Bay of Quinte and Rice Lake, by improving the Navigation of the River Trent: And whereas, it is expedient that the two lower Sections of the said communication should be immediately improved: And whereas, it is expedient to raise a sum of money, by way of loan, for that purpose; Be it therefore enacted, by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "*An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'*" and by the authority of the same, That it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, so soon after the passing of this Act as he may deem expedient, to authorise and direct His Majesty's Receiver General of this Province to raise, by way of loan, from any person or persons, Bodies Corporate or Politic, who may be willing to advance the same, upon the credit of the Government Bills or Debentures, authorised to be issued under this Act, a sum of money not exceeding Seventy-seven Thousand Five Hundred and Seven Pounds, Eleven Shillings and Four-pence Half-penny, at a rate of interest not exceeding Six per Centum per annum, payable half-yearly in this Province, or Five per Centum per annum, payable half-yearly in London, or at as much lower rate of interest as the same can be obtained for, and which said sum shall be raised in such amounts, and at such times as may be required, for the completion of the improvement of the said Navigation.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Receiver General, for the time being, to cause or direct any number of Debentures to be made out for any such sum or sums of money, not exceeding in the whole the said sum of Seventy-seven Thousand Five Hundred and Seven Pounds, Eleven Shillings and Four-pence Half-penny, as any person or persons, Body Politic or Corporate, shall agree to advance on the credit of the said Debentures, which Debentures shall be prepared and made out in such method and form, as His Majesty's Receiver General shall think most safe and convenient, bearing date on the day on which the same shall actually be issued, and being each for the payment of the sum so advanced, at the expiration of twenty years respectively, with interest at the rate aforesaid, from the date of each Debenture, until the same shall be discharged, and every such Debenture shall and may be signed by the Receiver General of this Province for the time being.

III. 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 the reign of His late Majesty, entitled, "*An Act to authorise the Government to borrow a certain sum of money, upon Debenture, to be loaned to the Welland Canal Company,*" respecting the issuing of Debentures; as to their being chargable upon the public revenues; as to their passing current with public accountants; as to the interest, and in what cases the same to cease; as to the method of ascertaining for what period interest shall be suspended; as to forging Debentures; as to the Receiver General submitting accounts of Debentures outstanding; as to when the Receiver General shall pay the interest accruing on Debentures, and upon what authority; as to the remuneration to the Receiver General, and persons employed under him; as to the payment of Debentures, when due and how to be cancelled; as to calling in of Debentures, and when interest to cease; shall apply to and be in force in respect to the Debentures which shall be issued under the authority of this Act, to all intents and purposes, as effectually as if they were herein at length set forth and re-enacted.

IV. 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 appoint five Commissioners, to carry into effect the provisions of this Act, whose duty it shall be to contract with such person or persons, as shall be willing to undertake the improvement and completion of the two lower Sections of the said communication, and the works therewith connected, or any part thereof, and who shall do and perform all and every act and acts, thing and things, necessary and proper to carry the intention of this Act into full effect; and shall and may, from time to time, after the completion of any part of the said improvements, fix such Rates and Tolls as to them may seem just; and shall report to the Governor, Lieutenant Governor, or Person Administering the Government of the Province, for the information of the Legislature, on or before the first day of November in each and every year, all matters by them done or performed, by virtue of this Act, with an account, in detail, of all monies by them received and paid, under the provisions thereof, with the proper vouchers for such payments.

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

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

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

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

IX. And be it further enacted by the authority aforesaid, That all and every enactment and provision contained in the thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second and twenty-third clauses of an Act, passed in the third year of His present Majesty's reign, entitled, "*An Act granting to His Majesty a sum of money, to be raised by Debenture, for the improvement of the Navigation of the River Saint Lawrence,*" as to Commissioners or Workmen entering upon the grounds of individuals, and making Surveys; as to setting out such lands as may be required for the Works; as to general powers in taking and laying materials on private property; as to altering route and repairing Works; as to the Commissioners agreeing with owners of land for the purchase of what may be required, and for damages done in the progress of the Work; as to appointing Arbitrators to settle claims, when no agreement shall have been made; as to the Assessment of damages by a Jury, when either party decline abiding by award, and at the expense of such party declining; as to the mode of striking a Jury; as to the attendance of Jury and Sheriff upon the premises, to assess damages; as to the oath of Jury; as to the expense of Jury and Sheriff, and how paid; as to considering of advantages in estimating damages; as to award being made a rule of Court; as to the taking materials from adjacent land, for the reparation of unexpected damages; as to the recompense to be given to the owner or occupier, when and how determined and liquidated; shall and they are hereby declared to be, to all intents and purposes, as fully and effectually in force, in and for the purposes of this Act, as if they were herein expressly and at length set forth and re-enacted, save and except the proviso contained in the thirteenth clause.

X. And be it further enacted by the authority aforesaid, That the said Commissioners shall, at the first General Meeting, ascertain and fix the Rates and Dues to be taken, by virtue of this Act, and that the said Commissioners may alter the said Rates and Dues at any subsequent Meeting, after giving two months notice of their intention so to do; and that a Schedule of Rates and Dues, shall be affixed in one or more conspicuous places, between the mouth of the River Trent and the Percy Landing.

XI. And be it further enacted by the authority aforesaid, That the payment of the said Rates and Dues, shall commence from and after the passing of this Act, and be appropriated and applied to the payment of the interest of such a sum of money as shall, from time to time, be advanced on the credit of the Province, under and by virtue of this Act.

XII. And be it further enacted by the authority aforesaid, That the said several Dues shall be paid to such person or persons, at such place or places, near to the said Canal, in such manner and under such regulations as the said Commissioners shall director appoint; and in case of denial or neglect of payment of any such Rates or Dues, or any part thereof, on demand, to the person or persons appointed to receive the same, as aforesaid, the said Commissioners may sue for and recover the same, in any Court having jurisdiction thereof, or the person or persons to whom the said Rates or Dues ought to be paid, may, and he is, and they are hereby authorised and empowered, to seize and detain such Boat, Vessel, Barge or Raft, for or in respect whereof such Rates and Dues ought to be paid, and detain the same until payment thereof.

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

XIV. And be it further enacted by the authority aforesaid, That an account of all Dues and Tolls received by the Commissioners, under the authority of this Act, shall be rendered to the Inspector General of the Province, on or before the thirtieth day of June, and the thirty-first day of December, in each year; and the amount thereof, deducting any necessary expenditure on account of the said improvement, and the expense of collecting the same, shall, within ten days thereafter, be transmitted to His Majesty's Receiver General of this Province, to be applied towards the payment of the principal and interest of any Loan, contracted in pursuance of this Act; and after the interest and the whole of the principal sum loaned under the, provisions of this Act, shall be paid and discharged, the proceeds of the said Dues and Tolls, after deducting the expenses of the collection thereof, and defraying the necessary expenses, shall be subject to the disposal of the Legislature of this Province.

XV. And to prevent disputes touching the tonnage of any Boat, Barge, Brig, Schooner, Sloop or other Vessel, passing into or using and partaking the benefits of the said Navigation: Be it further enacted by the authority aforesaid, That the Owner or Master of any such Boat, Barge or other Vessel whatsoever, shall permit and suffer any such Vessel to be gauged or measured, and refusing so to do, shall forfeit and pay the sum of Forty Shillings; and it shall be lawful for the Commissioners, or their Agent or Agents, or such other person or persons, as shall be appointed by them for that purpose, to proceed with such Owner or Master, or such other person or persons, as shall be chosen or appointed by such Owner or Master, to measure and ascertain such tonnage, and to mark the same on such Boat, Schooner or other Vessel, which mark shall always be evidence of the tonnage, in all questions respecting the payment of the aforesaid Rates or Dues; and if such Master or Owner shall refuse or decline to choose a person on his behalf, as

aforesaid, then the person appointed by the Commissioners, or their Agent or Agents, shall alone have the power of ascertaining such tonnage.

XVI. And be it further enacted by the authority aforesaid, That if any person or persons shall maliciously break down, damage or destroy, any Bank, Pier, Lock or Machine, or any improvement of what nature or kind soever, belonging to or connected with the said Navigation, or do any other act, hurt or mischief, to disturb or prevent the carrying into effect the provisions of this Act, or the completing, supporting, or maintaining the improvements aforesaid, every such person so offending shall be deemed guilty of a Misdemeanor.

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

XVIII. And be it further enacted by the authority aforesaid, That all penalties and forfeitures, for offences against this Act, or against any Rule, Order or By-Law, of the said Commissioners, to be made in pursuance hereof, shall, upon proof of the offences respectively, before any two Justices of the Peace for the Newcastle District, either by the confession of the party or parties, or by the oath of one credible witness, be levied by distress and sale of the goods and chattels of the parties offending, by warrant under the Hand and Seal of such Justices, and the overplus, after such penalties and forfeitures, and the charges, of such distress and sale are deducted, shall be returned, upon demand, to the owner or owners of such goods and chattels; and in case such sufficient distress cannot be found, or such penalties and forfeitures shall not be forthwith paid, it shall be lawful for such Justices, by Warrant, under their Hands and Seals, to cause such offender or offenders to be committed to the Common Gaol of the said District, there to remain without bail or mainprize, for such time as such Justices may direct, not exceeding twenty days, unless such penalties and forfeitures, and all reasonable charges attending the same, shall be sooner paid and satisfied.

XIX. And be it further enacted by the authority aforesaid, That if any plaint shall be brought or commenced against any person or persons, for any thing done or to be done in pursuance of this

Act, or in execution of the powers and authorities, or the orders and directions hereinbefore given or granted, every such suit shall be brought or commenced, within six calendar months next after the fact committed, or in case there shall be a continuation of damages, then within six calendar months after the doing or committing such damages shall cease, and not afterwards; and the defendant or defendants in such action or suit, may plead the general issue, and give this Act, and the special matter in evidence, at any trial to be had thereon, and that the same was done in pursuance and by authority of this Act, and if it shall appear to be done so, or if any action or suit shall be brought after the time hereinbefore limited for bringing the same, then a verdict shall be given for the defendant.

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

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

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