

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

7 William IV – Chapter 78

**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. Passed 4th March, 1837.**

Whereas the Act passed in the third year of His present Majesty's Reign, entitled, "*An Act to raise a sum of money to improve certain roads in the vicinity of the Town of York, and for other purposes therein mentioned,*" has fully realised the advantages anticipated, and given general satisfaction: And whereas, John Haycock, Matthew Crooks, Alexander Roxborough, John Aikman, Esquires, and others, of the District of Gore, have by petition set forth, that in consequence of the great increase of travel through the said District of Gore, to the Territory of Michigan in the United States, it is imperatively necessary that a substantial Turnpike Road should be constructed and Macadamized, from the Town of Hamilton, by the way of Ancaster, in the District of Gore, to Brantford, in the same District, with Toll-gates erected thereon, for the purpose of defraying the expense of constructing and keeping in repair the said Road, and it is expedient that the prayer of the petition should be granted: Be it therefore enacted, by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "*An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,*" and by the authority of the same, That it shall and may be lawful for the Receiver General of this Province, so soon after the passing of this Act as may be deemed expedient, to raise by way of loan, from any person or persons, Body Politic or Corporate, who may be willing to advance the same, upon the credit of the Tolls to be levied and collected on the Road hereby authorised to be improved, and the other securities provided by this Act, and not paid or chargeable against the general Revenue of this Province, any sum or sums of money, not exceeding in the whole Thirty Thousand Pounds, which said sum of Thirty Thousand Pounds, shall be appropriated and applied as follows, that is to say: to make a Macadamized Road from the Town of Hamilton, by the way of Ancaster, in the District of Gore, to the Town of Brantford, in the same District.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Receiver General, for the time being, to cause or direct any number of Debentures to be made out, for such sum or sums of money, not exceeding in the whole Thirty Thousand Pounds, as any person or persons, Body or Bodies Corporate or Politic, shall agree to advance on the credit of the Tolls and other securities provided by this Act; which Debentures shall be prepared and made out in such manner and form, as His Majesty's Receiver General shall think most safe and convenient, and shall be signed by the Receiver General, for the time being.

III. And be it further enacted by the authority aforesaid, That the Tolls arising from said Road, shall be applied in payment of the interest and principal of such Debentures, and for no other purpose whatever, until the full amount of Thirty Thousand Pounds, and the interest thereon, shall have been fully paid and satisfied.

IV. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Receiver General, to pay such sum and sums of money, out of the said loan to be raised on the said Debentures, as the Trustees hereinafter to be appointed for the said Road may require, for such parts of the work as may be from time to time completed, or for such materials as may be from time to time furnished, on such Trustees certifying that such sum or sums is or are necessary, to enable them to proceed with the work, not exceeding in the whole the sum of Thirty Thousand Pounds.

V. And be it further enacted by the authority aforesaid, That the interest due upon the said Loan or Debentures, shall and may be payable in half yearly periods, to be computed from the date thereof, out of the funds hereinafter provided, and shall be paid by the Receiver General of this Province, who shall take care to have the same endorsed on each Debenture at the time of the payment thereof, expressing the time up to which the said interest shall have been paid, and shall take Receipts for the same respectively.

VI. And be it further enacted by the authority aforesaid, That if any person shall forge or counterfeit any such Debenture as aforesaid, which shall be issued under the authority of this Act, and uncanceled, or any stamp, endorsement or writing thereon, or therein, or tender in payment any such forged Debenture, or any Debenture with such counterfeit endorsement or writing thereon, or shall demand to have any such counterfeit Debenture, or any Debenture with such counterfeit endorsement or writing thereupon or therein, exchanged for ready money, by any person or persons who shall be obliged and required to exchange the same, or by any other person or persons whomsoever, knowing the Debenture so tendered in payment or to be exchanged, or the endorsement thereupon or therein to be forged or counterfeited, with intent to defraud His Majesty, His Heirs and Successors, or the persons appointed to pay off the said Debentures, or any of them, or any other person or persons, Body or Bodies Politic or Corporate, then every such person so offending, being thereof lawfully convicted, shall be adjudged a Felon.

VII. And be it further enacted by the authority aforesaid, That at any time after the said Debentures or Loan, or any part thereof, respectively becomes due, it shall and may be lawful for the Receiver General of this Province, if he think proper so to do, to direct a Notice to be inserted in the Upper Canada Gazette, requiring all holders of the said Debentures, to present the same for payment according to this Act, and if after the insertion of the said notice for three months, any Debenture then payable shall remain out more than six months, from the first publication of such notice, all interest on such Debentures, after the expiration of the said six months, shall cease and be no further payable, in respect of the time which may elapse between the expiration of the said six months, and their presentment for payment.

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

IX. And be it further enacted by the authority aforesaid, That the said Trustees shall, and they are hereby authorised, to cause the said Highway, or Road and Bridges on the said Road, to be amended, widened and repaired, in such manner as they shall think proper; and to settle the direction of the said Road, or change or alter, or shorten, or make it more accessible; and to make, or cause to be made, Causeways; and to cut or make Drains, Ditches or Trenches, through any grounds lying contiguous to the said Roads, to make passage for the water, when it may be found necessary, from such Ditches or Trenches, through the lands or premises of any adjacent proprietor; and also to keep clear such Drains, Ditches, passages and outlets, and the Workmen authorised by them may go upon the said Lands for that purpose: Provided always, that reasonable satisfaction be made to the owner or occupier of such lands or premises, for the damages to be done thereby; and if the said owner or occupier shall not be satisfied with the allowance offered, the same shall be decided by a Jury of the District of Gore, at the Court of Quarter Sessions, to be empannelled and sworn for that purpose, at the request of the party aggrieved; and if such verdict shall not exceed the amount of the sum offered, the owner of the land shall pay the costs of the Court on the assessments of such damages; and in case the verdict of the said Jury shall exceed the offer made by the said Commissioners, then the costs of such trial and assessment shall be paid by the said Commissioners, out of any monies in their hands for the purposes of the said Road.

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

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

XII. And be it further enacted by the authority aforesaid, That if any Path-master shall fail or neglect to collect and pay over the Commutation money as aforesaid, when required by the Trustees so to do, he shall be liable to the same penalty, as is imposed for any other neglect or

omission of his duty by the Law in such case provided, to be levied and collected in the same manner.

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

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

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

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

XVII. And be it further enacted by the authority aforesaid, That the following persons shall be Trustees of the said Road, with full powers to carry into effect the purposes of this Act, namely: Daniel G. Gun, James Hughson, Edmond Ritchie, William B. VanEvery, William Scott Burns, Thomas Hammil, James Chep, Doctor Craig, Enos Bunnell; John Westbrooke, and William Richardson, who shall have power to erect such number of Toll-gates on or across the said Road, as to them, or a majority of them, may appear requisite; and fix such Tolls as may be found necessary and expedient, to answer the purposes of this Act, which Rates or Tolls may be altered, from time to time, as circumstances may require: Provided always, That the Trustees, acting under the authority of this Act, shall have power to make such equitable arrangement with any person, desiring or having occasion merely to cross any Macadamized Road mentioned in this Act, and without any intention to evade the Tolls, as to them may seem just and reasonable.

XVIII. And be it further enacted by the authority aforesaid, That so much of the thirty-sixth clause of an Act passed in the fifth year of His Majesty King William the Fourth, entitled, "*An Act to reduce to one Act of Parliament, the several Laws relative to the appointment and duties of Township Officers in this Province*", except an Act passed in the fourth year of the reign of William the Fourth, chapter twelve, entitled, '*An Act to regulate Line Fences and Water Courses*,' and to repeal so much of an Act passed in the twenty-third year of the reign of His late Majesty King George the

Third, entitled, 'An Act to provide for the nomination and appointment of Parish and Town Officers within this Province, as relates to the Office of Fence-viewers being discharged by Overseers of Highways and Roads," as relates to the wilful stopping up of any Highway or Road in any Township, be, and the same is hereby repealed, so far as relates to the operations of this Act.

XIX. And be it further enacted by the authority aforesaid, That the Trustees for the said Road shall meet at the Town of Ancaster, on the first day of June next, and elect one of their number to act as Chairman for the ensuing year, and all subsequent times and places of Meeting, shall be in the discretion of a majority of the Trustees.

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

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

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

XXIII. And be it further enacted by the authority aforesaid, That in order to raise the sum necessary to meet any deficiency left by the Tolls, for the purposes of this Act, an amount sufficient to cover such deficiency shall be raised, levied and collected, from the inhabitants of the District of Gore, paying or liable to pay the ordinary Taxes now by Law imposed, which additional rate shall be raised in the same manner as other Taxes, by the Collectors of the several Townships in the said District, and paid by them to His Majesty's Receiver General, which said additional rate shall be rated, levied and collected, under and by virtue of any order of the Magistrates, in Quarter Sessions assembled, made in pursuance of any application of the Receiver General of this Province for that purpose, upon its being made to appear, to the satisfaction of the said Justices, that the interest upon the said Loan cannot be otherwise paid and discharged, under the provisions of this Act.

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

of this Province, a Warrant for that purpose, which Warrant shall and may be issued at any time, upon application made to the Lieutenant Governor, by the Trustees for that purpose.

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

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

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

XXVIII. And be it further enacted by the authority aforesaid, That no person shall leave any Wagon, Cart or other Carriage, nor shall lay or cause to be laid or left, any matter or thing creating an obstruction of any kind or nuisance upon the said Road, or any of the Ditches or Drains thereof; and any person so offending, shall, for every such offence, forfeit and pay a sum not exceeding Twenty Shillings.

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

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

XXXI. And be it further enacted by the authority aforesaid, That the money authorised to be issued by this Act, shall be paid by the Receiver General of this Province, in discharge of such

Warrant or Warrants as may for that purpose be issued by the Governor, Lieutenant Governor, or Person Administering the Government of the same, and shall be accounted for to His Majesty, through the Lords Commissioners of His Treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

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

XXXIII. And be it further enacted by the authority aforesaid, That if any person or persons shall, after proceeding upon the said Road with any of the Carriages or Animals liable to the payment of Toll, turn out of the same into any other Road, and shall enter the said Road beyond the said Turnpike Gate or Gates, without paying Toll, whereby such payment shall be evaded, such person or persons shall, for every such offence, forfeit and pay the sum of Ten Shillings, which said sum shall be expended on the said Road, or towards the payment of the principal or interest of the sum expended thereon; and any one Magistrate of the said District of Gore shall, on conviction of such offender, fine such person or persons in the said penalty, from whose judgment there shall be no appeal.

XXXIV. And be it further enacted by the authority aforesaid, That if any person or persons, occupying or possessing any enclosed lands near to any Toll-houses or Toll-gates, which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands, or through any Gate, Passage or Way thereon, with any Carriage, or with any Horse, Mare, Gelding or other Animal, liable to the payment of Toll, whereby such payment shall be avoided, every such person so offending, and also the person or persons riding or driving the Animal or Carriage avoiding such payment, being thereof convicted, shall, for every such offence, severally forfeit and pay any sum, not exceeding Ten Shillings, which shall be laid out in improving the Road aforesaid.

XXXV. And be it further enacted by the authority aforesaid, That all Persons, Horses or Carriages, going to or from places of worship on the Sabbath, attending or returning from the Funeral of any person, shall be allowed to pass any Toll-gate on the said Road, free of Toll.

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

XXXVII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Trustees acting under the authority of this Act, if they deem it advisable and advantageous to the public interest, to Lease from year to year, the different Toll Gates erected by them on the Road

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under their charge, to such individuals as shall, after due notice having been given for that purpose, offer the highest terms for the same.