

Laws of Her Majesty's Province of Upper Canada, passed in the year 1839. Toronto: Robert Stanton, 1839.

2 Victoria – Chapter 47

An Act for making, repairing and improving, the Road from Amherstburgh to Sandwich, and from thence to Chatham, in the Western District, and for constructing and repairing Bridges thereon. Passed 11th May, 1839.

Whereas the public road or highway from Amherstburgh to Sandwich, and also that from Sandwich to Chatham, in the Western District, have become unfit to travel on, and it is not only dangerous but almost impossible to pass over the same by reason of the dilapidated state thereof, and of the decay and destruction by floods and otherwise of the bridges thereon; And whereas certain persons, inhabitants of the said District, have petitioned the Legislature for a sum of money to enable them to make, repair, improve and complete, the said roads; And whereas it is of great importance to that part of the Province, both in a civil and military point of view, that there should be a good road and highway from the Town of Amherstburgh to the Town of Sandwich, and from thence along the shore of the River Detroit, Lake Saint Clair and the River Thames, or as near thereto as may be, to the Town of Chatham aforesaid, in the said District: 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 it shall and may be lawful for the Receiver General of this Province, as soon after the passing of this Act as may be deemed expedient, to raise by way of loan, from any person who may be willing to advance the same, on the credit of the tolls to be levied and collected on the roads and bridges hereby authorised to be made and 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 Three Thousand Pounds; which said sum of Three Thousand Pounds shall be appropriated as follows, (that is to say,) to construct, make, repair, improve and complete the public road and highway and the bridges thereon, from the Town of Amherstburgh to the Town of Sandwich, and from the said Town of Sandwich to the Town of Chatham, in the Western District, along the shores of the River Detroit, the Lake Saint Clair and the River Thames, or as near thereto as may be.

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 all the sum of three thousand pounds, as any person shall agree to advance on the credit of the tolls and other securities provided by this Act, which Debentures shall be made out and prepared in such manner and

form as the said Receiver General shall think most safe and convenient, and shall be signed by him.

III. And be it further enacted by the authority aforesaid, That the tolls collected on the said road shall be applied solely to the payment of the interest and principal of such Debentures, and for no other purpose whatever, until the full amount of three thousand pounds, with the interest thereon, shall be 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 for the time being, to pay such sum and sums of money out of the said loan so to be raised as aforesaid, as the Trustees hereinafter to be appointed may require, either for such parts of the work as may from time to time be completed, or for such materials from time to time furnished, on such Trustees certifying that such sum or sums, not exceeding in the whole the said sum of three thousand pounds, are necessary to enable them to proceed in the due execution and completion of the work.

V. And be it further enacted by the authority aforesaid, That the interest due upon the said loan or Debentures shall be payable at half-yearly periods, to be computed from the date thereof, out of the funds hereafter provided, and shall be paid by the Receiver General for the time being, who shall take care to have the same endorsed on each Debenture at the time of 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 the Trustees of the said road hereinafter appointed, shall have full power and authority to cause the necessary surveys and estimates thereof to be made preparatory to the commencement of the said improvement; and to employ and pay a Civil Engineer to superintend the work, if they deem it necessary so to do; and by public tenders 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 erection of toll-gates and toll-houses, with their appurtenances, or for the supply of any part of the materials for the same, for the due performance of which contracts the said Trustees shall demand and take such security as they shall deem safe and reasonable in each case.

VII. And be it further enacted by the authority aforesaid, That the said Trustees shall, and they are hereby, authorized to cause the said highways or roads, and the several bridges on the same, to be constructed and amended, widened or repaired, improved and completed, in such manner as they shall think proper, and to settle the direction of the said road, or to alter or shorten the same, and to remove or alter the present bridges thereon, or any or either of them, and to make and erect any new bridge or bridges at their discretion, for the purpose of rendering the said roads more accessible to travel, and to cut drains contiguous thereto, to make passage for the waters discharged 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 it shall be lawful for the workmen and labourers authorised by

them to 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 done thereby; and that for this purpose the said Commissioners shall appoint three of their number to assess all damages claimed under the provision of this Act, and who before entering upon the discharge of that duty, shall be sworn before some one of Her Majesty's Justices of the Peace for the Western District, well and truly to assess the damages according to the best of their judgment, and whose duty it shall be, when assessing the damages done to any, individual through whose lands such road may pass, to take into their consideration the benefit (if any) accruing or likely to accrue to such person, by reason of the said road being carried through his lands.

VIII. And he it further enacted by the authority aforesaid. That from and after the passing of this Act, all persons living within one-half 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 six-pence per day for every day for which they are assessed.

IX. And be it further enacted by the authority aforesaid, That the Overseers of highways in the several divisions through which the said road shall pass, shall have full power and authority, and they are hereby required within their respective divisions, to demand and receive the amount of commutation money 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, the Overseer 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 this Act.

X. And be it further enacted by the authority aforesaid, That if any Overseer of highways 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.

XI. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Trustees of the said road, or for such persons as they shall appoint, to ask for and receive from the several overseers aforesaid any monies collected by them.

XII. And be it further enacted by the authority aforesaid, That the amount raised by such commutation of statute labour shall be expended and applied by the Trustees as follows, that is to say: so much thereof as the said Trustees shall think just and necessary on the side or branch roads leading to the main road as they may think advisable, and the remainder to so to the general fund for erecting and keeping in repair toll-gates, toll-houses, and their appurtenances, and for making, repairing, and keeping in good repair and order, the said road and highway, and the several bridges thereon.

XIII. And be it further enacted by the authority aforesaid, That the following persons be the Trustees for the said road, with full powers to carry into effect the purposes of this Act: viz. John Prince, Francis Caldwell, William McCrae, Robert Reynolds, William Anderton, John A. Wilkinson, Joseph Woods and P. P. Lacroix, Esquires; and Messrs. Chrysostom Pajot, Francis Drake, and Norman Freeman; who shall have power to erect such a number of toll-gates on or across the said road as to a majority of the said Trustees may appear requisite; and to fix such tolls as may be found necessary and expedient to answer the purposes of this Act; which rates or tolls may be by them altered as circumstances from time to time may require: Provided always, that the said Trustees shall have power to make such equitable arrangement with any person desiring or having occasion merely to cross the said road, and without any intention to evade the tolls, as to them may appear just and reasonable.

XIV. And be it further enacted by the authority aforesaid, That the Trustees of the said road shall meet at the Town of Sandwich, on the second Tuesday in July next ensuing, 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 said Trustees.

XV. And be it further enacted by the authority aforesaid, That all acts, proceedings, 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.

XVI. 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 Collectors to the Trustees aforesaid, when required by them so to do, and that it shall be the duty of the said Trustees to pay the same over to Her Majesty's Receiver General, (after deducting the toll-gate Keeper's salary or wages, and any other reasonable expenses,) 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.

XVII. And be it further enacted by the authority aforesaid, That the Trustees be and they are hereby 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.

XVIII. 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 Western District aforesaid, paying, or liable to pay, the ordinary taxes now by Law imposed; which additional rate shall be paid in the same manner as other taxes, to the Collectors of the several Townships in the said District, and paid by them to Her Majesty's Receiver General; which said additional rate shall be raised, 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 Justice that the interest upon the said loan cannot be otherwise paid and discharged under the provisions of this Act.

XIX. 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 arrears 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 Her Majesty's Receiver General, from and out of the public monies in his hands, applicable for the public uses of the Province, to advance such sum as may be necessary to pay off any balance in arrear on account of such interest, on receiving from the Lieutenant Governor 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.

XX. 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 other purposes of this Act.

XXI. 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 three thousand pounds within a period of not less than thirty years from the passing of this Act.

XXII. 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, authorized to be issued by this Act, redeemable at a shorter period than thirty years from the date of any such Debenture, and issuing other Debentures for a renewed loan to replace the same, or any part thereof, so that the whole sum of Three Thousand Pounds be liquidated within the aforesaid period of thirty years.

XXIII. And be it further enacted, by the authority aforesaid, That no person shall leave any waggon, cart or carriage, or shall lay, or cause to be laid or left any matter or thing creating, or likely to create, an obstruction, of any kind or nuisance upon the said Road, or in any of the ditches or drains thereof; and any persons offending shall for every such offence forfeit and pay the sum of twenty shillings currency.

XXIV. And be it further enacted by the authority aforesaid, That the fines and forfeitures authorized to be imposed by this Act, shall and may be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any Warrant, to be for that purpose issued by any one of Her Majesty's Justices of the Peace for the said Western District, who are hereby authorized and empowered to grant the same.

XXV. And be it further enacted by the authority aforesaid, That if any person shall cut, break down or otherwise destroy, any of the Toll Gates, or any Toll House to be erected by virtue of this Act, or any of the premises and appurtenances belonging thereto respectively, 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 shall remove any sand, gravel, earth, stone or timber, from or on the said Road, to the damage of the same, or shall wilfully wade, or forcibly pass, or attempt to pass by force, any of the Gates without having first paid the legal toll at such Gate, such person shall pay all damages by him committed, and shall forfeit and pay a fine not exceeding two pounds, nor less than ten shillings currency, to be recovered before any Justice of the Peace of the Western District, in the same manner as any other fines are recoverable before Justices of the Peace.

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

XXVII. And be it further enacted by the authority aforesaid, That if any person 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 re-enter the said road beyond the Turnpike Gate without paying toll, whereby such payment shall be evaded, such person shall, for every such offence, forfeit and pay the sum of five shillings, which shall be expended on the said road, or toward the payment of the Principal or Interest of the sum expended thereon, and any one Magistrate of the Western District shall, on conviction of such offender, fine such person in the said penalty, and levy such fine in the manner aforesaid, and from whose Judgment there shall be no appeal.

XXVIII. And be it further enacted by the authority aforesaid, That if any person occupying any enclosed lands near to any toll house or toll gate to be erected in pursuance of this Act, shall knowingly permit or suffer any person to pass through such lands, or through any gate, passage or way thereon, with any carriage, or with any horse, mare, gelding or other animal, liable to the payment of toll, whereby such payment shall be avoided, every person so offending, and also the person 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.

XXIX. And be it further enacted by the authority aforesaid, That all persons, horses and carriages, going to or returning from the funeral of any person, shall be allowed to pass any toll-gate on the said road free of toll.

XXX. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Lieutenant Governor of this Province, from time to time, by commission under his hand and seal, to nominate and appoint such person as he may think fit to fill any vacancy which may happen in the Board of Trustees appointed by this Act, by death, resignation or otherwise.

XXXI. 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 think it advisable and advantageous to the public interest, to demise and lease, from year to year, the different toll-gates erected by virtue of this Act on the road under their charge, to such individual or individuals as shall, after due notice given for that purpose, offer the highest terms for the same, upon such conditions as to a majority of them shall seem meet.

XXXII. 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, in discharge of such warrant or warrants as may for that purpose be issued by the Lieutenant Governor of this Province; and shall be accounted for to Her Majesty, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors, may be pleased to direct.

XXXIII. 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 in detail, at the close of every year, to the Lieutenant Governor of this Province, for the information of the Legislature, the sums they have received and expended, together with the amount of tolls received, with the proper vouchers for the disbursements by them made.

XXXIV. And be it further enacted by the authority aforesaid, That the Trustees of the said road should have power to cause the necessary surveys to be made thereof, and also to have the said road drained, and all necessary bridges and culverts made, as soon after the passing of this Act as they, or a majority of them, may deem advisable for the public good.