

The Provincial Statutes of Canada, passed in the year 1841. Kingston: Stewart Derbishire & George Desbarats, 1841.

4 & 5 Victoria – Chapter 63

An Act to explain and amend an Act of the Legislature of Upper Canada, relative to District Turnpike Trusts. 18th September, 1841.

Whereas doubts have arisen whether the Commissioners of the several Turnpike Trusts, in that part of the Province called Upper Canada, under and by virtue of an Act of the Parliament of the late Province of Upper Canada, passed in the third year of Her Majesty's Reign, and intituled, *An Act to repeal, alter and amend the Laws now in force for the regulation of the several Macadamized Roads within this Province*, have not power and authority to compel all persons living within half a mile of either side of the Roads placed by that Act under the care and management of such Commissioners, and who are by the existing Laws of the Province liable to perform statute labour, to commute the same and pay the amount in money, notwithstanding the road in front of the land of such persons has not been macadamized, or otherwise improved by such Commissioners: and whereas it would be manifestly unjust that such power should exist, and it is expedient to remove all doubt in that behalf; Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that no person living within half a mile of either side of any road placed by the hereinbefore recited Act, under the care and management of the said Commissioners, shall be held liable, or required to commute his or her statute labour and pay the amount in money, until the Commissioners shall have macadamized or otherwise improved that part of such road lying within half a mile of the land in respect of which such commutation shall be demanded; any thing in the herein before recited Act to the contrary thereof notwithstanding.

II. And be it enacted, that so much of the second section or of any other part of the Act of the Parliament of Upper Canada, cited in the Preamble to this Act, as enacts in effect that the Trustees of the several Turnpike Trusts in the Home District, shall form one Board, to be known by the style and title of "The Commissioners of the Home District Turnpike Trust," and shall have power and authority over the several macadamized Roads within the limits of the said District, as far as the improvement thereof has been authorized by any Act of the Legislature of Upper Canada, or as may be inconsistent with the provisions of this Act, shall be and so much of the said Act is hereby repealed; and that from and after the passing of this Act, the Trustees or Commissioners of each Macadamized Road within the said District, or so many of them as under the Act or Acts by virtue of which they were respectively appointed may exercise the powers thereby vested in such Trustees or Commissioners, shall with regard to the Road or Roads for which they were respectively appointed, and all matters and things therewith connected, have the same powers and authority and shall perform the same duties as were vested in or assigned to the

“Commissioners of the Home District Turnpike Trust,” with regard to such Road or Roads, respectively, and the matters and things therewith connected, by the Act cited in the Preamble to this Act.

III. And be it enacted, that if in any case where lands shall, before the passing of the Act first above cited, have been taken by the Commissioners or Trustees of any Road placed by the said Act under the control of the Commissioners of the District Turnpike Trust, for the purpose of such Road, or any other damage shall have been done to any person by such Commissioners or Trustees, in carrying into effect the powers in them vested by law, and no compensation shall, before the passing of this Act, have been paid or tendered to the party whose land was so taken, or who sustained such damage, as aforesaid, it shall be lawful for the Commissioners of the District Turnpike Trust to assess and tender such compensation, and if such compensation shall not be so assessed and tendered within six months after the passing of this Act, or if the party to whom it shall be tendered be not satisfied therewith, the amount of such compensation shall be decided by a Jury of the District at the Court of Quarter Sessions, to be empanelled and sworn for that purpose, at the request of the party entitled to compensation, and if no compensation shall have been offered, and a verdict for compensation shall be given, or if the verdict shall be for a greater sum than that tendered, as aforesaid, the Commissioners shall pay the costs of the proceeding, otherwise they shall be paid by the party claiming compensation, and the amount of the compensation assessed, tendered or awarded by verdict under the provisions of this section, shall and may be paid by (be Commissioners of the District Turnpike Trust out of any monies in their hands applicable to the purposes of the Act first above cited.