

Laws of Her Majesty's Province of United Canada, passed in the year 1851. York: Stewart Derbishire and George Desbarts, 1851.

14 & 15 Victoria – Chapter 172

An Act to incorporate The Fort Erie and Buffalo Suspension Bridge and Tunnel Company.

Reserved for the signification of Her Majesty's pleasure 30th August, 1851.

The Royal Assent given by Her Majesty in Council on the 2nd February, 1852; and Proclamation made thereof by His Excellency James, Earl of Elgin and Kincardine, in the Canada Gazette of the 6th March, 1852.

Whereas Alexander Douglas, J. P., and Town Reeve of Bertie, James Kerby, J. P., James Stanton, J. P., William Rainsford and others, have by a Petition set forth the facility and convenience which the construction of a Suspension Bridge over the Niagara River, or a Tunnel under the same, at or near Waterloo Ferry, in the Township of Bertie, would offer to the public, and have prayed that they, and such others as may be associated with them for the purposes hereinafter mentioned, may be incorporated, and certain powers granted them to enable them to construct such a Bridge or Tunnel: 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 the said Alexander Douglas, J. P., James Kerby, J. P., James Stanton, J. P., William Rainsford, and all persons who shall become Shareholders in the undertaking hereinafter mentioned, pursuant to this Act, shall be, and they are hereby constituted a Body Corporate and Politic by and under the name, style and title of The Fort Erie and Buffalo Suspension Bridge and Tunnel Company, with power to unite with any other persons, company or body politic, to construct Suspension Bridge across the Niagara River or a Tunnel under the same, at or near Waterloo Ferry aforesaid, with the necessary approaches thereto with rail, macadamized, or other roads; and to connect the same with any road now or hereafter to be made at any point within half a mile of the said Waterloo Ferry; and the said Corporation by the name aforesaid, shall and may, they and their successors, have perpetual succession, and be capable of contracting and being contracted with, suing, and being sued, pleading and being impleaded, answering and being answered unto in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever; and they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure; and also that they and their successors, under the same name of *The Fort Erie and Buffalo Suspension Bridge and Tunnel Company*, shall be by law capable of purchasing, having and holding any real or personal estate for the use of the said Company, and of departing therewith for the benefit of the said Company: Provided always, nevertheless, that the value of the real estate so holden by the said Company, at any time, exclusive of the said Bridge or Tunnel, shall not exceed the sum of One Thousand Pounds.

II. And be it enacted, That Fifty Thousand Pounds shall constitute the Capital Stock of the said Company, and that the same shall be divided into Shares of Twenty-five Pounds each.

III. And be it enacted, That the said Alexander Douglas, J. P., James Kerby, J. P., James Stanton, J. P., and William Rainsford, shall be Commissioners, who shall, on the first day of September next, at Waterloo Ferry aforesaid, or at such other place or places as they or a majority of them shall appoint, open Books to receive Subscriptions to the Capital Stock of the said Corporation, and that thirty days' public notice shall be given by the said Commissioners of the time and place of opening such Books, in a newspaper printed and published in the County of Welland, and that the said Books shall remain open for at least three days, at the several places where the same may be opened under the direction of one or more of the said Commissioners, and such sum as they may think expedient, not exceeding ten per cent, shall be paid on each Share subscribed at the time of subscribing.

IV. And be it enacted, That the said Commissioners shall assemble at Waterloo Ferry, on the first day of October next, or as soon thereafter as the whole Capital Stock of the said Corporation shall be taken up, and shall proceed to distribute the said Stock amongst the Subscribers thereto, and in case there shall be Subscriptions to more than the amount of such Stock within the term specified for keeping open the said Books, it shall then be the duty of the said Commissioners to apportion the same among the Subscribers in such manner as a majority of them shall deem most advisable; and as soon as the Stock shall be distributed, the Commissioners shall give notice of a meeting of the Shareholders at Waterloo Ferry to choose seven Directors; the notice last mentioned shall be published for the same time, and in the same manner as the notice hereinbefore mentioned, and such election shall be made at the time and place so to be appointed by such of the Shareholders as shall attend for that purpose, either in person or by lawful proxy; and the said Commissioners shall deliver over the Subscription Money and Books to the said Directors; and the time and place of holding the first meeting of Directors shall be fixed by the Commissioners.

V. And be it enacted, That the Stock and Affairs of the said Corporation shall be managed by seven Directors who shall be Shareholders, annually chosen (except at the first election), on the first Monday in May, in each year, at Waterloo Ferry, at a meeting of the Shareholders, of which due notice shall be given at least ten days before such election, and each Shareholder, at all elections of Directors, shall be entitled in person or by proxy to one Vote for each Share of Stock held in his own name, at least fourteen days previous to the time of voting; all elections shall be by ballot, and the persons having the greatest number of Votes shall be Directors, and shall hold their offices for one year and until others shall be chosen in their places; the Directors shall, at their first meeting after each election, choose one of their number to be President, and shall have power to appoint a Treasurer.

VI. And be it enacted, That such Directors may require from the Shareholders payment of all sums of money by them subscribed by instalments not exceeding ten per cent, per month, at such time and in such proportions as maybe deemed proper, under the penalty of the forfeiture of their respective Shares, and of all previous payments thereon.

VII. And be it enacted, That the Directors for the time being, or a majority of them, shall have power to make and subscribe such Rules and By-laws as to them shall appear needful and proper, touching the management and disposition of the Stock, Property, Estate and Effects of the said Corporation, and touching the Duties of its Officers, Clerks and Servants, their Appointments and Salaries, and all such other matters and things as shall appertain to the business of the said Corporation.

VIII. And whereas the construction of a Bridge over or a Tunnel under the said River, at the said place, will decrease the amount of rent accruing to the Province from the Ferry across the Niagara River, by reason of the disuse of the said Ferry from the greater facility afforded by the said Bridge or Tunnel: Be it therefore enacted, That it shall and may be lawful for the Justices of the Peace for the County of Welland, or a majority of them, at the Court of General Quarter Sessions of the Peace to be held in the month of January next following the completion of the said Bridge or Tunnel, to fix and determine the Sum which the said Company shall pay yearly to the Crown as a Compensation for such Decrease of Rent, and a Report of such determination shall be transmitted to the Inspector General, by and under the Hand and Seal of the Chairman of the said Sessions, and also to the Secretary of the said Company, and the Sum so fixed and determined shall thereafter become due yearly to Her Majesty on the first day of January in each year, and shall be paid accordingly by the said Company to the Receiver General for the public uses of the Province.

IX. And be it enacted, That the said Directors shall have power to cause such examination and surveys of the way to and locations for the said Bridge or Tunnel, as may be necessary to the selection of the most advantageous site for the same, and shall have full power to enter upon, take and occupy any lands necessary for the construction of the rail or other roads leading to and from the same within the limits aforesaid, first paying or tendering the value thereof, which value shall be determined by two persons selected, one by the Claimant and the other by the said Company; and in case they do not agree, a third person shall be selected by them, (or if they cannot agree upon such third person, then by the County Judge on the application of either of them), whose decision shall be final; and the said Directors shall select and by Certificate designate the ways to and site of the said Bridge or Tunnel, copies of which said Certificate shall be filed in the Office of the Register of the County of Welland, and such ways and site shall be deemed the ways to and site for the said Bridge or Tunnel, and on which the said Corporation may make and construct the said Ways and Bridge as hereinafter mentioned.

X. Provided always and be it enacted, That the height of the said Bridge and of the several parts thereof above the surface of the water, shall be determined by Order of the Governor in Council, to which Order the said Company shall in all respects conform, on pain of forfeiting all the privileges to them granted by this Act: And provided also, that the height shall not be less than the number of feet required to admit all Vessels now navigating Lake Erie to pass thereunder.

XI. And be it enacted, That whenever the said Bridge or Tunnel shall be completed, and its safety fully tested, and the fact certified by the Provisional Warden of the said County of Welland, the

said Corporation may erect a Gate or Gates, and determine and establish the Rates of Toll to be demanded for the use of the said Bridge or Tunnel.

XII. And be it enacted, That the said Directors shall have power to make such Rules and pass such By-laws as they may think reasonable and proper, with suitable penalties (not exceeding in any case Twenty Pounds), touching the speed in passing over the said Bridge and the weight to be admitted thereon at any one time; which Rules, as well as the Rates of Toll shall be plainly painted on a Board or Cloth, and put upon or near each Gate in a conspicuous place; and such penalties, if incurred, shall be recoverable in like manner as the penalties hereby imposed.

XIII. Provided always, and be it enacted, That no By-law, imposing or regulating the Tolls to be taken by the said Company, shall have any force or effect, nor shall any such Tolls be received by the Company under it, until such By-law shall have been submitted to and approved by the Provisional Warden of the County of Welland, and signed by him in witness of such approval, nor until after being so approved by the said Warden, it shall also be approved by the Governor in Council.

XIV. And be it enacted, That if any person or persons shall forcibly pass any Gate without having paid the legal Toll, such person or persons shall forfeit and pay to the said Corporation a sum of not less than Two Pounds and not exceeding Twenty Pounds, to be recovered before any Justice of the Peace of the County of Welland, in the same manner as any other fines are recoverable before Justices of the Peace.

XV. And be it enacted, That if any Toll-gatherer shall, unreasonably and without cause, delay or hinder any passenger, or the passage of any property, agreeably to the Pule prescribed in such case, or shall demand or receive more than the legal Toll, he shall for every such offence forfeit the sum of One Pound Five Shillings currency, to be recovered with costs, for the use of the person so delayed, hindered or defrauded, before any one Justice of the Peace for the County of Welland, who may, on conviction of such offender, condemn such person to pay the said penalty, and levy the same in the manner hereinafter mentioned.

XVI. And be it enacted, That if any person shall wilfully do or cause to be done any act or acts whatsoever, whereby the said Bridge or Tunnel or any thing appertaining thereto, shall be impaired or injured,- the said person or persons so offending shall forfeit and pay to the said Corporation, treble the damages sustained by means of such offence or injury, to be recovered in the name of the Corporation, with costs of suit, by action, and shall be moreover guilty of a misdemeanor, and be punishable by fine or imprisonment, or both, by any Court having cognizance of such offence; Provided, that nothing in this Act contained shall be construed to extend to take away the jurisdiction given to Justices of the Peace, by an Act passed in the fourth and fifth years of the Feign of Her present Majesty, intituled, An Act for consolidating and amending the Laws in this Province relative to malicious injuries to property.

XVII. And be it enacted, That the fines and forfeitures authorized to be imposed by any Justice of the Peace 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 such Justice, who is hereby authorized and empowered to grant the same.

XVIII. And be it enacted, That if any action or suit shall be brought against any person or persons, for any matter or thing done in pursuance of this Act, such action or suit shall be brought within Six Calendar Months next afterwards, and the Defendant or Defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

XIX. And be it enacted, That if the said Bridge or Tunnel shall not be commenced within two years, and completed and used within five years, from the passing of this Act, then the said Corporation, and the privileges hereby conferred upon it, shall, from thenceforth, cease and determine.

XX. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such, shall be judicially noticed by all Judges, Justices of the Peace, and other persons, without being more specially pleaded.

XXI. And be it enacted, That notwithstanding the privileges hereby conferred, the Legislature may, at any time hereafter, make such additions to this Act, or such alterations of any of its provisions as they may think proper, for affording just protection to the public or to any person or persons, body politic or corporate, in respect to their estate, property or rights, or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right, public or private, that may be affected by any of the powers given by this Act.