

**Report of the Commissioners for Niagara
Falls Park, 1885-1886.**

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AN ACT FOR THE PRESERVATION OF THE NATURAL
SCENERY ABOUT NIAGARA FALLS.

[CHAPTER 21, 48 Victoria.]

[Assented to 30th March, 1885]

Whereas, the Government of the Dominion of Canada has not availed itself of the provisions of the Act passed in the forty-third year of Her Majesty's reign, entitled An Act Respecting Niagara Falls and the Adjacent Territory, and it is desirable that other means should be taken to restore to some extent the scenery around the Falls of Niagara to its natural condition, and to preserve the same from further deterioration, as well as to afford to travellers and others facilities for observing the points of interest in the vicinity ;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

1. This Act may be cited as The Niagara Falls Park Act.

Short title

2. "Owner" or "owners" in this Act, besides including any person in whom the legal and equitable estates are vested, shall also include a mortgagor guardian, trustee and committee, and every guardian, trustee and committee shall have authority to agree as to compensation under this Act and bind the persons of whom he is the guardian, trustee or committee.

Interpretation

"Land" or "lands" shall include any parcel of land, stream, pond, water-course, fence and wall, and any easement in any land.

3. The Lieutenant-Governor in Council may appoint three persons who shall constitute a Board of Commissioners by the name of "The Commissioners for Niagara Falls Park" and the Lieutenant-Governor in Council may from time to time fill any vacancy that may occur in such Board.

Commissioners may be appointed.

4. The said Commissioners shall hold office during pleasure, and shall receive no compensation except their actual disbursements in performing their duties.

Tenure of office.

5. The Board of Commissioners are to select such lands in the vicinity of the Falls of Niagara within Ontario as are in their opinion proper to be set apart for the purposes set out in the preamble of this Act, and for that purpose shall have power to enter upon, examine, measure and survey such lands in the vicinity of the Falls as they deem necessary to enter upon and examine.

Selection of land.

Report of Commissioners as to mode of securing object proposed.

6. The Commissioners are further to report as to the plan which in their opinion ought to be adopted for securing the permanent appropriation of the lands for the objects hereinbefore mentioned; and for the improvement and preservation of the property, and as to the mode in which the same should be managed in order to secure the enjoyment of the same as a public park, together with such other matters as the Commissioners may think fit.

Map of land selected.

7. The Commissioners shall cause to be made a map of the land which they shall select, which map shall be certified by a majority of said Commissioners.

Land selected to be subject to Act if approved by Lieutenant-Governor.

8. In case the Lieutenant-Governor in Council approves of the selection or any part thereof, the lands so approved shall be subject to the provisions of this Act; and in case of such approval copies of the map with the lands marked thereon which shall have been approved as aforesaid, shall be filed in the office of the Registrar for the County of Welland and in the office of the Commissioner of Crown Lands upon the certificate of the Clerk of the Executive Council of Ontario.

Value of land to be ascertained.

9. The Commissioners shall thereupon proceed to ascertain the value of the lands selected and approved as aforesaid with a view to the same being purchased under the authority of this Act for the objects and uses hereinbefore mentioned.

Mode of ascertaining value.

10. For the purpose of ascertaining and determining the prices to be paid for the said lands, the Commissioners may agree with the respective owners as to the price and terms of payment, subject to the provisions of this Act; and if they are unable to agree the prices to be paid shall be determined by the Provincial Arbitrators in the manner provided for by the Revised Statute respecting the Public Works of Ontario; and all the provisions of the said Act, in regard to the mode of determining the compensation to be paid for lands or other property or rights to be acquired by the Commissioner of Public Works, shall apply as nearly as may be in determining the compensation to be paid for lands or other property or rights to be acquired for the purposes of this Act; but in lieu of making any tender the Commissioners may name a price which they are willing to fix as the price to be paid, and notice thereof to the owners shall stand in lieu of a tender. The compensation agreed to or awarded as aforesaid shall be the price to be paid for the lands or rights described in the agreement or award in case the same are taken under this Act or by the authority of the Legislature of this Province within two years after the passing of this Act.

Report as to value.

11. After the proceedings hereinbefore provided for determining the value of the lands selected, have been completed, the said Commissioners shall report to the Lieutenant-Governor their proceedings therein, with a statement of the parcels of land proposed to be taken, and the value thereof as determined by arbitration or agreement.

Transfer of right to acquire lands.

12. In case the report of the Commissioners so recommends, the Lieutenant-Governor in Council, after giving a

notice that proposals will be received from companies willing to undertake the establishment and maintenance of the park under the Act, and after a reasonable publication of the said notice, may transfer to any Trustees, or to a Company incorporated under the Letters Patent Act, or otherwise, the right of acquiring for the purposes aforesaid the said lands at the prices so agreed on or awarded, subject to the ratification of the transfer by the resolution of the Legislative Assembly.

13. Any transfer shall be subject to the following conditions: Conditions of transfer.

(1) The general park grounds of the company shall be open and free to the public without charge, subject to any general rules and regulations of the company as to management, approved of by the Lieutenant-Governor in Council, and in case of question or doubt the Lieutenant-Governor in Council is to determine what grounds come within this condition.

(2) The transferees may mortgage, either by bonds or otherwise, its revenues, but shall have no authority to mortgage or alienate any lands acquired within the limits selected and set forth as aforesaid, and the same shall be kept for public purposes in accordance with the true intent and object of this Act, and shall remain subject to the terms and conditions imposed by the charter granted, or otherwise, unless so far as such terms and conditions shall with the consent of the company be subsequently varied by the Lieutenant-Governor in Council by letters patent in that behalf.

(3) In case the transferees fail to purchase any parcel of land which they are entitled to purchase under this Act, they shall pay to the owner his costs of the proceedings before the arbitrators.

(4) If the transferees after paying for certain parcels of the land to be acquired, fail within such time as the Lieutenant-Governor in Council shall deem reasonable to acquire the residue of the land selected by the Commissioners, and approved by the Lieutenant-Governor as aforesaid, the Lieutenant-Governor in Council may incorporate another company with like powers, or with such variations as the Lieutenant-Governor in Council may think proper, and upon payment to the former transferees, or into the High Court, of the amount paid as compensation to the owners for the land, such new transferees shall be entitled to take possession of the lands, and to receive a conveyance thereof.

(5) The Lieutenant-Governor in Council, in making the transfer, may reserve to the Province the right of acquiring the lands from the company at such time and on such terms as may be stated in the instrument of transfer.

(6) The Lieutenant-Governor in Council, in making the transfer, may subject the transfer to such other restrictions and conditions as he may deem necessary in the public interest, having regard to the purposes of this Act.

Powers which
may be given
to transferees

14. The Lieutenant-Governor in Council may confer on the transferees under section 12 or 13 of this Act the following powers or any of them :—

(1) Power to establish and maintain a public park on the lands so acquired, and to make all improvements which the transferees may think necessary, and the Lieutenant-Governor in Council approve, to give full effect to the points of interest in and about the Falls, and which may be required for the comfort and convenience of the public.

(2) Power to construct and operate inclined planes and elevators to and from the water's edge of the Niagara River, and construct tramways and railways, with one or more set of rails, and to be worked by the force and power of steam, electricity, or of the atmosphere, or of animals, or by any mechanical power, or by any combination of them, in, over and upon the lands acquired by them, as the Lieutenant-Governor in Council may from time to time approve.

Provided always that the works shall not be commenced until the company has submitted to the Lieutenant-Governor in Council plans of their proposed works and the same shall have been approved by the Lieutenant-Governor in Council.

(3) Power to collect reasonable tolls for the use of the inclined planes or elevators, trams or railways, or other works or appliances which involve the expenditure of money for maintenance of service ; provided that all tariffs of the company shall be subject to the approval of the Lieutenant-Governor in Council.

(4) Power to move and change that portion of the present highway between the new suspension bridge and the Table Rock, back from the edge of river bank or cliff, to a distance not exceeding two hundred and fifty yards at any one point so as to permit the planting of trees, and the formation of an esplanade, and other improvements thereon ; in case of the removal of the present highway, the said transferees shall construct another and as convenient a highway, at their own expense, and the change of said highway shall not take place until the new and substituted highway shall have been constructed and approved by the Lieutenant-Governor in Council.

(5) Power to make any arrangement or agreement with any railway, road or bridge company, lawfully authorized in that behalf, for the use or otherwise of any railway, road or bridge, connecting with, or in the vicinity of the said property and for the better carrying out of the objects of the said company.

(6) Power to make rules, regulations or by-laws for the user of their property by the public, and for the maintenance



of order thereon, subject to the approval of the Lieutenant-Governor in Council ; and any person appointed to keep order, may, after taking the oath of office before a justice of the peace, and after his appointment, as approved in writing by the County Judge, act as and perform the duties, and be subject to the responsibilities, of a constable and peace officer within the limits of said property and the municipalities adjacent thereto.

15. The transfer and the grant of the said powers shall be subject to ratification by resolution of the Legislative Assembly: Transfer subject to ratification by Legislative Assembly.

16. If the person conveying lands or property selected under this Act could not, without this Act, have conveyed the same or agreed for the compensation to be paid therefor, or if any owner or party to whom the compensation money or any part thereof is payable, refuses to execute the proper conveyance, or other requisite instrument of transfer of the lands, or if the person entitled to claim the compensation cannot be found, or is unknown, or if there is reason to fear any claim or incumbrance, the compensation money agreed upon or awarded may be paid into the High Court of Justice (with the interest thereon for six months), and a copy of the conveyance, or of the agreement or award if there be no conveyance, verified by affidavit, may be delivered to the registrar or other proper officer of the Court. Payments of compensation money into court.

17. The compensation money for any lands acquired or taken under this Act without the consent of the proprietor, shall stand in the stead of such lands ; and any claim to or incumbrance upon such lands shall be converted into a claim to the compensation money or to a proportionate amount thereof, and shall be unavailing as respects the lands themselves. When compensation to stand in place of the land.

18. Possession shall not be taken of any part of any lands valued as aforesaid until the amount agreed on or awarded for the same shall have been paid to the persons appearing to be entitled, or paid into court under the provisions of this Act. Possession.

19. Where land selected and taken under this Act is subject to a mortgage or other incumbrance, it shall not be necessary to notify the mortgagee or other incumbrancers of any arbitration proceedings taken to determine the value of the land, unless the Commissioners intend to urge a price to be named which would be insufficient to pay off the incumbrance. When notice to incumbrancers required.

20. If the land is not taken and paid for within two years as aforesaid, the owner shall be entitled to receive the costs to which he has been put in any proceedings taken for determining by arbitration the value of his land ; the amount of costs shall be stated in the award of the arbitra- Owner entitled to costs of land not taken.



tors, whether the arbitrators direct that the party shall be entitled to such costs in the event of the land being purchased, or direct otherwise.

Costs to be in discretion of arbitrators.

21. Subject to the provisions of the last section, the arbitrators shall have full authority to determine by and to whom any costs incurred in connection with any arbitration shall be paid, but any costs which should be paid by an owner to the Commissioners shall be directed by the award to be paid to the Treasurer of Ontario; the award as to costs shall not take effect until the land is purchased, and if any such costs are directed to be paid to the said Treasurer by an owner the same shall be paid to the said Treasurer and deducted from the price of the land.

Application of R. S. O. c 30 to proceedings under this Act.

22. For greater certainty, it is hereby declared that the following sections of the Act respecting the Public Works of Ontario, being Chapter 30 of the Revised Statutes, shall, as nearly as may be, and unless where inconsistent with this Act apply to proceedings to acquire the said lands under this Act that is to say, sections 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 40, 41, 42, 43 and 44 and the powers or rights which by the said sections, or any of them, are vested in the Commissioners of Public Works or the Crown, are hereby vested in the said Board of Commissioners, until and unless the right to purchase is transferred as provided by this Act, and thereafter the same are hereby vested in the transferees subject to the provisions of this Act; and in applying the provisions of the said Act while the Commissioners are acting, "the Board of Commissioners;" shall be substituted for "the Crown" or "the Commissioner", where either of the said expressions is used in the said Act; and in case of a transfer to others where the transferees are acting, the transferees by their corporate or other proper name, shall be substituted for the said expressions.

43 V. c. 13, repealed.

23. The act passed in the forty-third year of Her Majesty's reign, chapter 13, entitled An Act respecting Niagara Falls and the Adjacent Territory, is hereby repealed.

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