

*Laws of His Majesty's Province of Upper Canada*, passed in the year 1857. Toronto: Stewart Derbishire & George Desbarats, 1857.

20 Victoria – Chapter 80

**An Act to amend the-Act conveying to the City of Toronto cert a in Witter Lots, with power to the said City for the construction of an Esplanade, and to enable the said City to locate the Grand Trunk Railroad and other Railroads along the frontage of the said City. Assented to 10th June, 1857.**

Whereas under and by virtue of the Act sixteenth Victoria, chapter two hundred and nineteen, the Mayor, Aldermen and Commonalty of the City of Toronto, have contracted with the Grand Trunk Railway of Canada, for the building and construction of an Esplanade in front of the said City, according to a certain plan to the said contract annexed, a copy of which plan has been filed and deposited in the office of the Commissioner of Crown Lands in this Province, and it has become necessary to grant further and other powers to the said the Mayor, Aldermen and Commonalty of the City of Toronto, to enable them to complete the said Esplanade, according to the said contract, and certain other work connected therewith: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. It shall and may be lawful for the said Mayor, Aldermen and Commonalty of the City of Toronto, and for their contractors, workmen, servants and agents, to enter in and upon all lands and water lots, and to cross all wharves, docks, piers and premises lying within the limits of the said Esplanade, as laid down on the said plan annexed to the said contract, and take possession thereof, and use and occupy the same to the width of one hundred feet for the purposes of the said Esplanade, and<sup>l</sup> to take down and remove all buildings and erections now being upon the said line of the said Esplanade, as laid down on the said plan so annexed to the said contract, and filed and deposited in the said office as aforesaid, and to locate the roadway of the said Grand Trunk Railway and other Railways to the width of forty feet thereon, as shewn on the said plan, doing no unnecessary damage and interfering with and interrupting the approach to and the use of the said wharves, docks and piers upon any of the water lots crossed for the purpose of the said Esplanade as little as possible; Provided always, that nothing in this or any previous Act contained, shall prevent the said Mayor, Aldermen and Commonalty of the City of Toronto, and the several Railway Companies interested therein, by and with the consent of the Governor in Connell, within two years from the passing of this Act, from locating the different lines of the said Railways along the frontage of the said City, in such manner between the said forty feet, mentioned in the said contract and according to the said plan, and the south side of Front Street from the Queen's Wharf to Yonge Street in the said City, as shall be most conducive to the public interests.

II. It shall and may be lawful for the said Mayor, Aldermen and Commonalty of the City of Toronto, to contract with the said Grand Trunk Railway Company of Canada, or any person or persons, company or companies forthwith (and during the construction of the said Esplanade under the said contract), to fill up and grade to the level of the said Esplanade, as laid down on the said plan, the whole space lying between the northern limit of the said Esplanade as laid down on the said plan annexed to the said contract, and now in the course of construction, and the present shore of the Bay of Toronto, and extending from the said Esplanade, eastward to Cherry street, and westward to the Queen's Wharf,

and to enter in and upon and pass over and along all the water lots in front of the said City for that purpose, interfering with and interrupting the approach to all wharves, docks and piers, and the enjoyment of the same, by their respective owners and occupiers as little as possible; and 'the expenses of filling up and grading the same, shall be ascertained in manner hereinafter mentioned, and shall be repaid to the said Mayor, Aldermen and Commonalty of the City of Toronto, by the owners and other persons having estates in the land on which such grading, levelling and filling in shall be done, such persons being charged in an equitable proportion according to the nature and extent of their estate in the said lands, and any contract or contracts for the like purpose that may heretofore and before the passing of this Act have been entered into by the Mayor of the said City of Toronto, on the behalf of the said City, under the sanction and authority of any resolution of the Common Council of the said City, shall be legal, valid and binding on all parties named in the said contract, and shall be taken and considered for all intents, purposes and uses whatsoever, as a contract, made under the authority and provisions of this Act; Provided always, that the amount to be paid to the City for the said filling in, grading and levelling of such vacant space, shall be ascertained in the first instance by the City Surveyor, in manner as provided in the said Act in respect to the said Esplanade, and all sums to be paid to the owners of water lots in fee, their assignees, lessees or representatives, in respect of the land or lands covered with water taken by the said Mayor, Aldermen and Commonalty of the City of Toronto, for the purposes of the said Esplanade, as well as the amounts to be paid to the said Mayor, Aldermen and Commonalty of the City of Toronto, by the lessees or occupants of the water lots belonging to the City of Toronto for the construction of the said Esplanade, or by any party or parties whomsoever, for the filling up, grading and levelling of the said space north of the Esplanade hereinbefore mentioned, and if the same cannot be agreed upon and adjusted between the said parties interested therein, shall be ascertained and settled by arbitration, in the same manner as is provided in other cases by the said recited Act, and every arbitrator appointed under the said recited Act or this Act, shall, before entering upon the duties of his said office, be sworn before one of the Judges of the Superior Courts of this Province, well, truly and faithfully, and without partiality to fulfil the duties thereof to the best of his judgment.

III. For and notwithstanding any Act of the Parliament of this Province, or any clause, matter or thing therein contained to the contrary, it shall and may be lawful for the Mayor, Aldermen and Commonalty of the City of Toronto, forthwith and without further notice or other proceeding, to pass a By-law to raise a Loan for such an amount, not exceeding seventy-five thousand pounds, as may be necessary for the purpose of filling in, grading and levelling the said space between the north line of the Esplanade and the shore of the Bay, and the extensions thereof as aforesaid, and to issue any number of Debentures payable in this Province or elsewhere, in sums of not less than one hundred pounds, which may be requisite and necessary therefor, payable in twenty years from the respective dates thereof, and for the purpose of redeeming the same and paying the interest thereon, a special rate may be imposed as provided in the Act hereinbefore mentioned, and shall be applied in payment of interest and in forming a sinking fund for principal in like manner as therein provided.

IV. And whereas the property directed by the Letters Patent of the twenty-first February, one thousand eight hundred and forty, mentioned in the said Act, to be conveyed to the said water lot owners therein referred to, was intended as a compensation for the hind which might be taken from them respectively for the Esplanade, and for the expense of making so much thereof as should be

made on the lands taken from Ilium respectively: Be it enacted, that the owners be respectively charged with their respective shares of such expense; and if any such water lot owner or person having estate in any such water lot, shall be dissatisfied with any such compensation, his claim to a further allowance shall, if not agreed upon, be determined by arbitration as aforesaid, and in coming to such decision, the said Arbitrators shall take into consideration the increased value of the lots by means of the improvements contemplated by this Act, as well as all other matters connected therewith, and also the value of the strips of land between the same and the top of the bank, and of the land covered with water in front thereof to be conveyed to the owners in fee of the said water lots under the provisions of the Act first above mentioned, and if such increased value of the said water lots and the value of the said strips of land and portions of land covered with water, together with the expense of constructing the said Esplanade, shall equal the value of the land taken for the Esplanade, it shall be the duty of the Arbitrators to decide in favor of the city generally, and if it shall exceed the value of the land taken, then to decide that such excess shall be paid to the city by the said water lot owners in manner provided by the said Act hereinbefore mentioned, for payments to the city for the construction of the said Esplanade; Provided always, that nothing in this section contained, shall affect the right, if any, of any party who may claim any strip of land covered by water or otherwise, adjoining the water lots granted by any patent issued prior to the said twenty-first day of February, one thousand eight hundred and forty, but the rights of such party, if any, to such strips of land shall remain the same as before the passing of this Act.

V. All sums of money ordered to be paid by the said Mayor, Aldermen and Commonalty of the City of Toronto, to the owners of the said water lots in fee, shall be paid within one year from the date of the decision of the said Arbitrators, or from the date of any rule of Court ordering the same, with interest, and the sum to be paid to the Mayor, Aldermen and Commonalty of the City of Toronto, by the lessees of water lots belonging to the said City of Toronto, and by all parties whomsoever, for the filling up, grading and levelling between the Esplanade and the shore of the Bay, shall be a charge Upon the lands in respect to which the same is payable, in the manner provided as to the Esplanade by the first mentioned Act, from the time a certificate of the said decision of the said Arbitrators signed by them, or a certificate of a rule on any appeal under the seal of the Court from whence it issues, shall be registered in the Registry Office of the County of York, for the purpose of which registry no other proof shall be required than proof by affidavit of the handwriting of the said Arbitrators, or the seal of the said Court; and such moneys last mentioned shall be payable and recoverable if not paid, in the manner provided for in the Act first above mentioned, and shall be applied as by the said Act is also directed.

VI. For and notwithstanding any matter or thing contained in the Patent from the Crown, dated the fourteenth day of July, one thousand eight hundred and eighteen, mentioned in the eighth section of the Act hereinbefore referred to, it shall and may be lawful for the said Mayor, Aldermen and Commonalty of the City of Toronto, to lease for any term or terms of years, or to agree for the sale of and absolutely to sell and dispose of the space or strip of land in the said patent and section of the said Act described, freed and discharged from any and all of the said trusts, conditions and restrictions in the said Patent contained; and all moneys received therefor, whether by way of rent or otherwise, shall be carried to a special account by the Chamberlain of the City of Toronto, and shall be expended by the said Mayor, Aldermen and Commonalty of the City of Toronto, in the purchase, planting, ornamenting

and care of some other piece or parcel of land to be held by the said Mayor, Aldermen and Commonalty of the City of Toronto, upon similar trusts as are in the said patent contained and set forth.

VII. Provided always, that nothing in this Act contained shall apply to or affect any of the lands or property formerly vested in the principal Officers of Her Majesty's Ordnance and referred to in the Act passed in the nineteenth year of Her Majesty's Reign, chaptered forty-five, or any lands or property of Her Majesty, nor shall any of the powers herein given to the Mayor, Aldermen and Commonalty of the City of Toronto, be construed as in any way applying thereto.

VIII. This Act shall be taken to be a Public Act.