

An Act to extend the Acts for the formation of Companies for constructing Roads and other Works, to Companies formed for the purpose of acquiring Public Works of like nature.

[24th July, 1850.]

WHEREAS it is expedient to extend the benefit of the Acts hereinafter mentioned, to Companies to be formed for the purpose of acquiring and holding Public Works, or property under the provisions of the Act authorizing the transfer of such works or property to any such Company or to other parties therein designated: 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, subject to the provisions of this Act, the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to authorize the formation of Joint Stock Companies for the construction of Roads and other Works in Upper Canada*, and of the Act passed in the year last aforesaid and intituled, *An Act to authorize the formation of Joint Stock Companies in Lower Canada, for the construction of macadamized Roads, and of Bridges and other Works of like nature*, shall be and are hereby extended and shall apply to any Company to be formed for the purpose of acquiring for ever or for any term of years, any of the Public Roads, Harbours, Bridges or Public Buildings which may be lawfully transferred to any such Company under the Act passed in the year last aforesaid and intituled, *An Act for the better management of the Public Debt, Accounts, Revenue and Property*, or for the purpose of so acquiring and of improving or extending (or both) any such Public Work, as fully and effectually as if such purpose were expressly enumerated in the said Acts firstly and secondly mentioned respectively, among the purposes for which Companies may be formed under the same, the form of the instrument of association given in the schedules to the said Acts respectively, being varied so as to express that the Company is formed under one of the said Acts as amended by this Act, and for what purpose it is so formed: Provided always, that notwithstanding any thing in either of the said Acts, no Company to be formed under this Act for the purpose of acquiring any such Public Work as aforesaid (whether with or without the intention of extending the same) shall be liable to be opposed or prevented from acquiring such work or from using and working the same, by any Municipal Council or other party, nor shall the Company be bound to make any report respecting such work to any Municipal authority, nor shall such Municipal authority or the Crown have the right of taking such work at the end of any term of years, but the provisions of the said Acts respectively, as to such opposition and prevention, or to such report, or to the taking of the works and property of the Company by any Municipal authority or by the Crown, shall apply only to the extension of the same beyond the local limits of the work when transferred to the Company; nor shall any of the provisions of the said Acts which shall be inconsistent with any lawful provision or condition in any Order in Council legally made under the Act thirdly mentioned, or with the rights transferred by the same, apply to the Company to which such Order in Council shall relate; but nothing herein contained shall be construed to prevent the reservation in any such Order of the power of taking any such work with or without any such extension, and by the Crown or any Municipal authority, on the terms and conditions therein to be expressed. Provided always that the thirty-fifth section of the Act first above cited, and thirty-seventh section of the Act secondly above cited shall respectively apply to Roads, Bridges and other Works transferred to any Company and to the Company to whom the same shall have been transferred in relation to such Roads, Bridges and Works.

Preamble.

Act 12 Vic. cap. 56,
and 12 Vic. cap. 84,
extended to companies
formed for purchasing
public works under 12
Vic. cap. 5.

Proviso: such companies not liable to certain provisions of the said Acts.

Proviso: certain sections of the said Acts to apply.

What shall be the maximum Tolls to be taken by any such company.

12 Vic. cap. 4.

Proviso: as to exemptions from Toll.

Provision in favor of parties residing within a certain distance of the limits of any City or incorporated Town.

Order in Council transferring any public work may extend to certain matters.

Proviso: certain powers to be reserved, &c.

II. And be it enacted, That the Tolls to be taken by any Company to be formed for the purposes aforesaid, on any such Public Work as aforesaid, not being a Road, shall not be regulated by the provisions of the Acts firstly and secondly mentioned, respectively, but the maximum Tolls to be levied on such work by the Company shall be the maximum Tolls which can be lawfully levied on such work under the Act passed in the year last aforesaid and intituled, *An Act to make better provision with regard to the Tolls to be levied on the Public Provincial Works, and for other purposes relative to the said Works*, unless some lower maximum be fixed (as it may be) by Order in Council transferring the work to the Company or by some further order amending the same, made with the consent of the Company, and the Tolls to be levied on any Road, or on any extension of such other Public Work shall alone be regulated by the Acts firstly and secondly mentioned respectively in the absence of any special provision for lower rates in the Order in Council as aforesaid: Provided always, that no exemption from Toll on any Road or other Public Work so transferred as aforesaid or on any extension thereof, shall be valid against any Company to be formed under this Act, except such only as can be validly claimed under the Act firstly or secondly mentioned (as the case may be) on works constructed under the authority thereof, unless such exemption from Toll be stipulated (as the case may be) in the Order in Council transferring such Public Work to the Company.

III. And be it enacted, That it shall always be lawful for any party residing on the line of any Road transferred to any Company or Municipal Corporation under the provisions of this Act and of the Acts therein cited, and within half a mile of the limits of any City or Incorporated Town, to commute with such Company or Municipal Corporation for a certain sum per month to be paid by such party to the Company or Corporation for passing and re-passing through the Toll-gate between the residence of such party and the limits of such City or Town, and in default of agreement such commutation may be fixed by arbitration, each party appointing one arbitrator, and the two arbitrators a third, and the decision of any two of such arbitrators being final, and in default of commutation either by agreement or award of arbitration, such Company or Municipal Corporation shall be entitled to charge such party or his servants and others passing such gate with his carriages or vehicles, horses or cattle, such Tolls only as shall bear the same proportion to the Tolls per mile then charged by the Company or Municipal Corporation to other parties as the distance between the limits of the said City or Town and the residence of the party first aforesaid shall bear to one mile.

IV. And for avoiding doubts, Be it enacted, That the provisions and conditions of any Order in Council made under the Act thirdly above mentioned, may extend to the mode of adjusting and determining any difference which may arise between the Crown and any Company or Municipal Corporation as to their respective rights under the same, or to the reservation of the right of re-entry by the Crown into possession of any Public Work on the default of such Company or Corporation to perform the conditions agreed upon, and to the vesting in any Sheriff power to give possession of such Public Work to any Public Officer for the Crown, on any warrant under the hand and seal of the Governor to be addressed to such Sheriff, reciting such default and commanding him to give possession to such Officer for the Crown as aforesaid; and that no enactment to be made for the purpose of enforcing the provisions of any such Order in Council as aforesaid, shall be deemed an infringement of the rights of the Company or Municipal Corporation to which it shall relate: but nothing in this section shall prevent the enforcement of the rights of the Crown in any legal manner not inconsistent with the provisions and conditions of any such Order in Council as aforesaid.

V. Provided always, and be it enacted, firstly, That no Road, Bridge or Public Work shall be transferred to any Company without the reservation of power on the part of the Government to resume the same at any time after the expiration of a period which shall not exceed ten years, on conditions to be embodied in the order in Council transferring it: and no such Road, Bridge or Public Work shall be leased to any Company

Company for a longer period than ten years: Provided always, secondly, That no Road, Bridge or Public Work shall be sold or leased to any Company unless security, real or personal, shall have been given to the satisfaction of the Governor in Council, for an amount equal to ten per centum of the actual value of such Road, Bridge or Public Work in case of sale, or on the estimated value of such Work in case of lease, and such security shall be forfeited to the Crown in case of non-compliance with the conditions of such sale or lease: Provided always, thirdly, That in every instance one of the conditions of the sale or lease of any Road, Bridge or Public Work shall be, that such Work shall be kept in thorough repair, and that for all the purposes of such contract, sale or lease, the sufficiency of such repair shall be ascertained and decided on by such Engineer as shall be appointed to examine the same by the Commissioners of Public Works in this Province.

Proviso: security to be taken.

Proviso: condition that the work shall be kept in complete repair.

C A P. XV.

See Proclamation

An Act to make better provision with regard to the repairing of Roads within the limits of incorporated Cities and Towns, and of Roads and Bridges which having been under the control of the Commissioners of Public Works may hereafter be released from such control.

*17 April
1837 in Gazette
26 April
17 June
1853*

[10th August, 1850.]

WHEREAS it is expedient to remove all doubt on certain points with regard to the Roads and Highways within the limits of the several Cities and incorporated Towns in this Province: 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 right to use as Public Highway all Roads, Streets and Public Highways within the limits of any City or Incorporated Town in this Province, (except in so far as the right of property or other right in the Land occupied by the same Highways may have been expressly reserved by some private party when it was first used as such Road, Street or Highway, and except as to any Concession Road or Side Road within any such City or Town where the persons now in possession or those under whom they claim may have laid out Streets in such City or Town without any compensation therefor in lieu of such Concession or Side Road,) shall be vested in the Municipal Corporation of such City or Incorporated Town, and such Roads, Streets and Highways shall be maintained and kept in proper repair so long as they shall remain open as such, by and at the cost of such Corporation whether they were originally opened and made by such Corporation, or by the Government of this Province, or of either of the late Provinces of Upper or Lower Canada, or by any other authority or party; and if the Municipal Corporation of any such City or Incorporated Town shall fail to keep in repair any such Road, Street or Highway within the limits thereof, such default shall be a misdemeanor for which such Corporation shall be punished by fine in the discretion of the Court before whom the conviction shall be had; and such Corporation shall be also civilly responsible for all damages which may be sustained by any party by reason of such default, provided the action for the recovery of such damages be brought within three months after the same shall have been sustained, but not otherwise.

Preamble.

Roads, &c., in Cities or Towns vested in the Corporation, who shall keep them in repair.

Liability for failure to keep in repair.

II. And be it enacted, That any Public Road or Bridge made, built or repaired at the expense of the Province and now under the management and control of the Commissioners of Public Works may by Proclamation of the Governor issued by and with the advice and consent of the Executive Council, be declared to be no longer under the

How Roads and Bridges made by the Province, shall be kept in repair, if released from the control