

Laws of Her Majesty's Province of United Canada, passed in the year 1847. Montreal:
Stewart Derbishire & George Desbarats, 1847.

10 & 11 Victoria – Chapter 24

**An Act to amend the Act, intituled, *An Act to amend the Law constituting the Board of Works*.
28th July, 1847.**

Whereas it is expedient and necessary to make certain alterations and amendments in a certain Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to amend the Law constituting the Board of Works*: 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 all contracts, agreements, stipulations, bargains, arrangements, sales, covenants, or leases made or entered into with any person or persons whomsoever, or body corporate, by the Commissioners of Public Works for, or on account of, or relating to any public work, or any land or real or personal property, or hydraulic or other privilege, or any other matter or thing over or concerning which any power or authority is given to or vested in the said Commissioners, or in Her Majesty the Queen, Her Heirs and Successors, in and by the said first recited Act, or of this Act, shall be made and entered into in the name of Her Majesty, Her Heirs and Successors, and not otherwise: Provided always, that all such contracts, agreements, stipulations, bargains, arrangements, sales, covenants, or leases of or concerning any of the matters hereinbefore mentioned as shall have been made by the said Commissioners before the passing of this Act, shall be valid and effectual to all intents and purposes whatever, whether the same have been made and entered into in the name of the Commissioners of Public Works, or in the name of Her Majesty, Her Heirs and Successors.

II. And be it enacted, That all writings or documents which the said Commissioners of Public Works have power or authority to make, sign or execute in the name of Her Majesty, Her Heirs and Successors, shall and maybe signed and sealed by the Assistant Commissioner, and countersigned by the Secretary, and shall be as valid and effectual to all intents and purposes whatever, as if signed and sealed by the Chief Commissioner as now required by law; any thing in the said Act to the contrary notwithstanding.

III. And be it enacted, That if any person or persons or body corporate shall have any claim or claims for property taken, or for alleged, direct or consequent damages to property arising from the construction or connected with the execution of any public works in any part of this Province, heretofore undertaken, commenced or performed at the expense of this Province, or of either of the late Provinces of Upper or Lower Canada, or any claim or claims arising or to arise out of or connected with the execution or fulfilment, or on account of deductions made for the non-execution or non-fulfilment of any contract or contracts for the performance of any such public work as aforesaid or any part thereof, made and entered into with the said Commissioners or

either of them, either in the name of Her Majesty, Her Heirs and Successors, or in any other manner whatsoever, or with any other Board, or any other Commissioners lawfully authorized to enter into the same on behalf of this Province, or either of the said Provinces of Upper or Lower Canada, — it shall and may be lawful for such person or persons or body corporate to give notice of such claim or claims to the said Commissioners of Public Works, stating the particulars thereof, and how the same has or have arisen; and thereupon the said Commissioners may at any time within thirty days after such notice, tender what they shall consider a just satisfaction for the same, with notice that the said claim or claims shall be submitted to the decision of the Arbitrators appointed under the said first recited Act, unless the said sum so tendered is accepted within ten days after such tender, which shall be deemed to be legally made by any written authority for the payment of such sum given under the hand of the said Commissioners or either of them, and notified to the person or persons or body corporate having such claim or claims; and such tender so made shall be sufficient likewise in cases of tender of compensation under the eighth clause of the said first recited Act; Provided always, that before any claim or claims either under this Act, or the eighth clause of the said first recited Act, shall be arbitrated upon, the claimant or claimants thereof shall give security to the satisfaction of the said Arbitrators or any two of them, for the payment of the costs and expenses incurred by the said arbitration, in the event of the award of the said Arbitrators being against such claimant or claimants, or not exceeding such sum so tendered as aforesaid, which costs shall in other cases when the award is in favor of such claimant or claimants be paid by the said Commissioners in addition to the sum awarded, and shall in either case be taxed by the proper officer of the Court of Queen's Bench in Upper or Lower Canada, as the case may be; And provided also, that the award of a majority of the said Arbitrators shall in all cases, either under the said first recited Act or this Act, be as binding and valid as if made by all the said Arbitrators; and that any award made under the said first recited Act or under this Act, shall be subject to all the provisions contained in the said first recited Act for the annulling or confirming awards directed to be made therein; and the remuneration of the said Arbitrators shall in all cases be fixed at the sum of twenty shillings per diem, for every day of attendance upon such arbitration, together with travelling expenses at the rate of ten shillings per diem, while engaged in going to, remaining at and returning from the places where such arbitration shall be held.

IV. And be it enacted, That no claims of any nature or kind soever according to the next preceding section hereof, which shall have arisen before the passing of this Act, shall be entertained by the said Arbitrators or any of them, unless such claim shall be brought before the said Commissioners of Public Works within nine months from the passing of this Act.

V. And be it enacted, That if any Writ of *Saisie-arrêt*, *Saisie Revendication* or Attachment shall be served upon the said Commissioners, it shall be lawful for the said Secretary in any such case to appear on the return day of such Writ before the Court from which such Writ shall issue, and then and there for the said Secretary as well as the said Commissioners to make the declaration in such case required by law, according to the exigency of each case, which said declaration shall be taken and received in all Courts of Justice in Lower Canada as and for the declaration of the said Commissioners.

VI. And be it enacted, That when and so often as it shall be necessary in the prosecution of any public work or works for the said Commissioners, or their contractors, or authorized servants or agents, to pull down, take down or remove any wall or walls, fence or fences of any proprietor, owner or occupier of any lands or premises adjoining such public work or works, it shall be the duty of such Commissioners or contractors, or their authorized agents or servants, to replace the same as soon as the necessity which caused their being pulled or taken down or removed has ceased, and from and after the same shall have been so replaced, the said proprietor, owner or occupier of the said lands or premises shall maintain such wall or walls, fence or fences, in the same manner and to the same extent as such proprietor, owner or occupier should or might be by law required to do, if the same had never been taken or pulled down or removed as aforesaid.

VII. And be it enacted, That for and notwithstanding any thing contained in Schedule B 4, in the said first recited Act, it shall and may be lawful for the Governor in Council from time to time, on the report of the said Commissioners, to place the toll-gates on the said roads in that Schedule mentioned at such places and such distances from each other, as shall appear to him advisable and requisite, and to vary, change and alter the said Schedule in all or any particulars in the said Schedule mentioned, so as the rates of toll shall not be increased beyond the amount in the said Schedule mentioned on each time of passing any toll-gate or gates, and to notify the same by Proclamation in the Official Gazette.

VIII. And be it enacted, That it shall and may be lawful for the Governor in Council, to order the Tolls at the several gates erected or to be erected on any public road now or at any time hereafter vested in the Crown, or placed under the management or control of the Commissioners of Public Works by the hereinbefore first recited Act or by any future Act or Acts of the Legislature of this Province, to be let to farm in such manner and under such regulations and by such form of lease as he may think expedient at any time to adopt, and the Lessee or Farmer of such Tolls or any other person he may authorize or appoint, shall and may demand and take such Tolls so leased or farmed, and proceed for the recovery of the same in the name of such lessee or farmer in case of non-payment or evasion thereof, in the same manner and by the same means as are now given by law to any collector of Tolls or other persons authorized to collect the same.

IX. And be it enacted, That it shall be lawful for the collector or person appointed to collect the tolls, rates and dues on Timber passing any slide now or at any time hereafter to be vested in the Crown or placed under the management or control of the Commissioners of Public Works, to detain any timber which shall have passed over such slide until all tolls, rates and dues thereon shall have been paid, or to refuse to permit any Timber to pass the slide until the tolls, rates and dues payable thereon for passing such slide shall have been paid; and the owner, conductor or person in charge of any Timber which shall have passed any such slide, who shall refuse or neglect forthwith to pay the rates, tolls and dues thereon, shall incur a penalty of ten shillings for each day he shall refuse or neglect to pay the same, — and such penalty shall be payable with such rates, tolls or dues, and before the Timber so detained shall be released; and if such rates, tolls and dues, with the said penalty, be not paid within ten days after the timber shall have been so detained, such timber, or so much thereof as may be required to produce the sum payable, shall and may be sold by the collector or person appointed as aforesaid, who shall retain out of the proceeds a sum

equal to the said rates, tolls and dues and the said penalty, and shall pay over the surplus and deliver the remainder of the said Timber (if any) to the owner thereof, or to the conductor or person in charge of the same when it was so detained as aforesaid.

X. And be it enacted, That so much of the sixteenth section of the said first recited Act as provides that it shall not be lawful for the Commissioners of Public Works to depart in any case more than five hundred yards from such line or lines as shall have been delineated on the maps or plans of any Public Work submitted to and approved of by the Legislature, be and the same is hereby repealed, and that it shall and may be lawful for the Commissioners of Public Works to deviate from any line or lines in any map or plan as aforesaid for a distance not exceeding one mile.

XI. And be it enacted, That the twenty-fifth section and so much of the thirtieth section of the said first recited Act as relates to the time of bringing forward claims which had arisen before the passing of the said first recited Act, be and the same are hereby repealed.