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c 210 Toll Roads Act

Ontario

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CHAPTER 210.

An Act respecting Toll Roads.

HIS 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 Toll Roads Act. 2 Geo. V. c. 50, s. 1.

PART I.

CONSTRUCTION AND OPERATION OF TOLL ROADS.

2. In this Part,

"Inspector" shall mean the Inspector of Toll Roads. 2 Geo. V. c. 50, s. 2.

APPLICATION OF PART I.

3. This Part shall apply to companies heretofore or hereafter incorporated for

(a) Constructing on, along, or over any public road or highway, or allowance for road, or on, along, or over any other land a planked, macadamized, gravelled or other road not less than two miles in length, and also any bridges, piers, or wharfs connected therewith; or

(b) Purchasing any such road and any bridges, piers or wharfs connected therewith. 2 Geo. V. c. 50, s. 3.

INCORPORATION OF ROAD COMPANIES.

4.—(1) No company shall be incorporated until,

(a) Shares have been subscribed for to an amount deemed sufficient to construct or purchase, as the case may be, the entire road and works for the construction or purchase of which the incorporation of the company is sought; and

(b) The subscribers for shares, or some of them, have paid, on account of the shares subscribed for, ten per cent. of the entire amount of the proposed capital stock. 2 Geo. V. c. 50, s. 4.
5. Except as hereinafter provided, no company shall construct such road or other works through, over, along or upon any private property or property of the Crown without having first obtained the permission of the owner or occupier thereof or of the Lieutenant-Governor in Council, as the case may be. 2 Geo. V. c. 50, s. 5.

6. No road shall be constructed or pass within the limits of any city, town or village except by permission, under a by-law, of the city, town or village. 2 Geo. V. c. 50, s. 6.

7. All bridges in the line of road between the termini of any road, which are not within the limits of any city, town or village, shall be deemed part of such road unless specially excepted in the charter of the company. 2 Geo. V. c. 50, s. 7.

8. No road shall be made of a higher grade than one foot elevation to twenty feet along the road without the sanction of the engineer of the county in which the road or other work is situate or constructed, and if there is no such officer then of an engineer appointed by the county council for that purpose. 2 Geo. V. c. 50, s. 8.

9. If under any statute heretofore passed a company has been formed to construct any road, bridge, pier, or wharf connected therewith, and the stock of the company has been subscribed, and the work is in course of completion within the time limited by the statute under which the charter was obtained no company shall be incorporated for the construction of the road for the construction of which the prior charter was obtained so long as the charter remains in force. 2 Geo. V. c. 50, s. 9.

10.—(1) No company shall commence any work until thirty days after the directors have served a written notice upon the head of the municipality within the jurisdiction of which the road or other work connected therewith is intended to pass.

   (2) If the council of such municipality passes a by-law prohibiting, varying or altering such intended line of road or the plan of such other work, the by-law shall have the same force and effect, and be as obligatory upon all persons and upon such company, if the company proceeds with the construction of the road or other works, as if the provisions thereof had been contained in this Act.

   (3) If no by-law is passed within thirty days after service of the notice the company may proceed with the intended road or other works. 2 Geo. V. c. 50, s. 10.
11. Where a new road has been opened, or the line of an old road has been changed, the municipality having jurisdiction may pass a by-law stopping up the old road, or part of a road, and for conveying the same to the person or persons from whom land was taken to form the new road, if it does not exclude any person residing on or near the line of the old road from convenient access to the new road. 2 Geo. V. c. 50, s. 11.

12. The company may explore the country lying between the termini of its road, or supposed to be adapted for the site of any other works connected with such road, and may designate, take and hold the requisite land upon the line and within the limits of such road, or for such other works, and may, for the purpose of the construction and repair of such road or other works, take and carry away stone, gravel, sand, earth and other like material, from any adjoining or neighbouring land, and may also cut, make and keep in repair, upon such adjoining or neighbouring land, such ditches, drains and water courses as are necessary for effectually draining or carrying off the water from such road or other works. 2 Geo. V. c. 50, s. 12.

13. Where such road passes through or by any wood or standing timber the company may cut down the trees and underwood for one hundred feet on each side of the road, and, for that purpose, the company and their agents, servants and workmen may enter into and upon the land of any person, doing no unnecessary damage. 2 Geo. V. c. 50, s. 13.

14.—(1) If the owner or occupier of any land over, through or upon which the company desires to construct any such road or other works, or from which it desires to take material, or on which it intends to exercise any of the powers given to it by this Act, neglects or refuses, upon demand made by the company, to agree upon the price or amount of damages to be paid for or for passing through or over such land, and expropriating the same, or for material taken, or for the exercise of any such powers, the same shall be determined by arbitration.

(2) If the land required by the company, or with regard to which such powers are to be exercised, is held or owned by any person whose residence is not within Ontario, or is unknown to the company, or if the title to the land is in dispute, or the land is mortgaged, or if the owner is unknown, or is from any cause incapable of treating for the sale thereof, or for the exercise of such power, or to appoint an arbitrator, the company may name one disinterested person and the Judge of the County or District Court of the county or dis-
The award, or a duplicate thereof, shall be registered in the proper registry office, and, if the compensation has been paid, the company may thereupon enter upon and take possession of the land for the use of the company and proceed with the construction of its road or other works in, along or over the same. 2 Geo. V. c. 50, s. 15.

16. No road or other work shall encroach upon any building or pass through or upon any pleasure ground, garden, yard or orchard, nor shall any material be taken therefrom, nor shall any timber be taken from any enclosed land without the consent of the owner. 2 Geo. V. c. 50, s. 16.

17. After a survey of a road has been made the owner or occupier of land through or along which the road is intended to pass shall not, by erecting any building or enclosing any part of such surveyed land as a yard or by planting fruit trees or forming an orchard thereon, prevent the company from taking possession of the land. 2 Geo. V. c. 50, s. 17.

18.—(1) Where a company desires to widen, extend or widen or alter the line of road as projected or constructed, or to construct a branch road to intersect the original main road, or to improve or repair a road or part thereof by substituting stone, gravel, plank or other suitable material, the company may, from time to time, but subject to the rights of any other company then incorporated under this or any other Act, by by-law provide for the widening, extending or altering of such line or road, or for the construction of such branch road and the making of such improvements and repairs.

(2) The powers conferred by this section of widening, extending or altering the line of road, or of constructing a branch road, shall not be exercised without the consent of the council of the municipality within whose jurisdiction such powers are to be exercised.
Chap. 210. TOIlL ROADS. Sec. 18 (3).

(3) This section shall not prevent the company from crossing an intersecting road of another company on such terms and conditions as, if the companies cannot agree, may be determined by the Lieutenant-Governor in Council. 2 Geo. V. c. 50, s. 18.

SALE OF ROADS.

19. A company may sell to the corporation of a municipality through or along the boundary of which such road passes or in which its works are situate, and the corporation may purchase the stock of the company, or any part of such road or works, at a price to be agreed on; and the corporation may hold the same for the benefit of the municipality, and shall, after the purchase, stand in the place and stead of the company, and possess all such powers and authority as the company possessed and was entitled to exercise in respect to the road or part of road or other work purchased. 2 Geo. V. c. 50, s. 19.

20.—(1) The corporations of all municipalities through or along the boundaries of which a toll road passes shall set apart as a fund for the purchase of such road all taxes collected from the company and all dividends received on the stock of the same, owned by the corporation; and such corporations, and the corporations of all cities, towns and villages within three miles of the road may add to such fund from the other money of the corporation; and such fund may be invested from time to time in the stock of such company, or, where such road is not owned by a company, in purchasing a fixed interest therein.

(2) On the completion of the purchase of the whole of the stock of the company or of the road, and payment of any debt incurred therefor, or sooner, if the council of the municipality so decides, all toll gates shall be removed from such road. 2 Geo. V. c. 50, s. 20.

21. When a road, bridge, pier or wharf has been heretofore or is hereafter sold, either by the company or under a power granted by it or under legal process against the company, the sale shall be deemed to have passed and to pass such road, bridge, pier or wharf to the purchaser with all the rights, privileges and appurtenances and subject to all the duties and obligations which the law gave or imposed with reference to the road, bridge, pier or wharf whilst the same was the property of the company. 2 Geo. V. c. 50, s. 21.

POWERS OF MUNICIPAL COUNCILS.

22. A municipal corporation, having jurisdiction within the locality through or along the boundary of which a road passes or in which a work is constructed, may subscribe for, hold, sell and transfer shares in a company, and the council
may from time to time direct the head of the municipality, on behalf thereof, to subscribe for such shares in the name of the corporation, and to act for and on behalf of the corporation in all matters relating to such shares, and the exercise of the rights of the corporation as a shareholder and the head of the municipality, whether otherwise qualified or not, shall be deemed a shareholder in the company and may vote and act as such, subject to any rules and orders in relation to his authority made in that behalf by the by-laws of the council or otherwise, and may vote according to his discretion in cases not provided for by the council. 2 Geo. V. c. 50, s. 22.

23. The council may pay all instalments upon the shares subscribed for or acquired out of any money of the corporation not appropriated to any other purpose. 2 Geo. V. c. 50, s. 23.

24. Where a municipal corporation holds shares in a company and is entitled to vote for the election of directors, and holds a controlling amount of the shares in the company, the council shall, by resolution, appoint such number of directors only as will suffice to form a majority of the board of directors, and every member of such council, whether a shareholder in his own right or not, and any ratepayer in the municipality not being a shareholder in his own right, shall be eligible to be appointed director on behalf of the corporation, and the shareholders, other than such corporation, shall elect the other directors. 2 Geo. V. c. 50, s. 24.

25.—(1) The council of any municipality, through or along the boundary of which a road passes or within which any works connected therewith are constructed, may, out of the money of the corporation and not appropriated to any other purpose, lend money to the company upon such terms and conditions as may be agreed on.

(2) The corporation may issue debentures for raising the amount required for the loan in the same manner and subject to the same conditions as are applicable to the creation of a debt and the issue of debentures therefor. 2 Geo. V. c. 50, s. 25.

26. The provisions of the last preceding four sections shall, as respects the corporations of cities and towns, apply to companies for the construction of roads or bridges within or without such cities or towns. 2 Geo. V. c. 50, s. 26.

MATERIALS.

27. Subject to the provisions of section 14 a company, or a municipal corporation having the management of a road, may acquire, expropriate and hold any gravel bed and stone 61 s.—II
or gravel from any land lying within any municipality through or along which the road or any portion thereof passes for repairing the same. 2 Geo. V. c. 50, s. 27.

28. A company may form a turnpike road, in part or the whole, of metal, gravel, timber or any other material suitable for constructing a firm, substantial and smooth surface, whether or not the material is mentioned in the instrument of incorporation. 2 Geo. V. c. 50, s. 28.

29.—(1) Every company shall, whenever necessary, sow with grass seed all cleared land belonging to the company adjoining its road, and cause the same, so far as practicable, to be covered with grass or turf, and shall cause all thistles and other noxious weeds growing on the land to be kept cut down or rooted out.

(2) For every contravention of this section the company shall incur a penalty of $2 for each day on which it fails to comply with any of the requirements of this section, within eight days after having been required to do so by a notice to be served on the company by or on behalf of the corporation of the municipality within which the land lies.

(3) If the company does not, within eight days, comply with the notice the corporation may cause all such things to be done as the company was by the notice lawfully required to do, and the corporation may recover the expense of so doing, together with the penalty and all costs and charges, from the company in any Court of competent jurisdiction. 2 Geo. V. c. 50, s. 29.

TIME FOR COMPLETION OF ROAD.

30.—(1) Every company shall, within two years from the day of its incorporation, complete every road or extension thereof, not more than five miles in length, and any other work undertaken by it and for the completion whereof it was incorporated, and, in default thereof, all its corporate powers shall thenceforth cease and determine, unless further time is granted by a by-law of the county in which the road, or the greatest portion thereof, is situate.

(2) If the road or extension thereof exceeds five miles in length the company shall complete in each and every year, after the expiration of such first two years, not less than five miles of the road until the same is entirely finished, and in default, unless further time is granted as provided by subsection 1, as far as concerns the portion of the road which remains unfinished, its corporate powers shall thenceforth cease and terminate. 2 Geo. V. c. 50, s. 30.

ABANDONMENT OF ROADS.

31.—(1) A company may by by-law abandon the whole or, subject to subsection 5, any portion of its road.
(2) After the abandonment of a portion of such road the council of any municipality, within which the road or any part thereof lies, shall assume such abandoned portion as lies within the municipality, and shall have and may exercise the same jurisdiction over the same, and the corporation shall be liable to the same duties as it has or is subject to in respect to public roads.

(3) The abandonment of the whole road shall be signified by the head or president of the company by a notice in writing, delivered to the clerk of the council of the county wherein the road or any part thereof lies; and, until the delivery of such notice, the company shall be liable for damages arising from the unsafe condition of the road, and after the abandonment the council of any county within which the road or any part thereof lies may assume such abandoned portion of the road as lies within the county, and the corporation of such county shall have and enjoy all the rights and be subject to all the responsibilities and liabilities as is provided in section 48.

(4) Failing such action on the part of the council of the county the road shall be subject to the same jurisdiction for the control and repair thereof as is provided in section 49.

(5) A company shall not be entitled to abandon a part of its road without the consent, to be expressed by by-law, of the council of the municipality within which the portion of the road lies; nor shall any company or municipal corporation be entitled to collect tolls upon any remaining portion of the road less than five miles in length if the road originally exceeded that length. 2 Geo. V. c. 50, s. 31.

TOLLS ON ROADS, ETC.

32. The company may from time to time fix, regulate and receive the tolls and charges to be paid by persons passing and repassing with horses and vehicles, and for cattle, swine, sheep and other animals driven upon, over and along the road of the company, or by persons passing over any bridge with such vehicles or animals, or using any work of the company. 2 Geo. V. c. 50, s. 32.

33.—(1) When two or more miles of road have been completed, and have been approved in writing by the Inspector, tolls may be taken therefor, but tolls shall not be taken on any other work of the company until the same has been completed.

(2) The right to take tolls shall not be affected by the intervention, in the line of the road, of a bridge which is owned by or under the jurisdiction of a municipal corporation or of another company. 2 Geo. V. c. 50, s. 33.
34.—(1) Subject to the provisions of The Tolls Exemption Act, and except as otherwise provided by this Part, tolls may be taken at each time of passing each gate upon the road for any portion of such road on either side or on both sides of the gate, not being more than five miles to the next gate, if any, and not exceeding five miles in the whole or for the whole of the road, if the length thereof does not exceed five miles and there is only one gate thereon, at the following rates per mile:

One horse and vehicle.

(a) For every vehicle drawn by one horse or other animal and the horse or other animal drawing the same, one and one-half cents;

(b) For every vehicle drawn by two horses or other animals and the horses or other animals drawing the same, two cents;

(c) For every additional horse or other animal drawing such vehicle, one cent;

(d) For every horse, with or without a rider, one cent;

(e) For each head of neat cattle, one cent;

(f) For every score, or less than a score, of sheep or swine, one cent;

(g) For every automobile, locomobile or other vehicle propelled otherwise than by muscular power, excepting the cars of electric or steam railways and other motor vehicles running only on rails or tracks, three cents;

(h) For every threshing or traction engine, and for every threshing machine with or without its water-cart drawn by such engine or by horses or other animals, five cents;

(i) In addition to the foregoing rates one cent at each time of passing each gate for any portion of the road, on either side or both side thereof, for every five hundred pounds over and above six thousand pounds which a loaded vehicle weighs.

(2) On any toll road established on or before the 16th day of April, 1895, which is not less than two miles or more than three miles long, where one toll only is charged for using the whole length of the road, a charge of three cents for one horse or other animal and any vehicle drawn thereby may be made at each time of passing a gate, or five cents for passing and return on the same day, if required, and a charge of five cents may be made for a pair of horses or other animals and any vehicle drawn thereby at each time of passing a gate.

(3) If, in computing the toll to be paid, the computation results in a fraction of a cent such fraction shall be counted as a cent. 2 Geo. V. c. 50, s. 34.
35.—(1) Where a toll road is intersected by or connected with another toll road not owned or in the possession of the same company or municipal corporation the tolls to be charged upon either of such roads, from the point of intersection or connection, shall be based upon the mileage of the road from the point of intersection or connection to its termination in the direction in which the person liable for toll is proceeding, and shall be calculated at the rate per mile charged for travelling along the entire length of the road.

(2) It shall be incumbent on such person to produce a ticket for the last toll-gate on the intersecting or connecting road as evidence of his having travelled only from the intersection or connection. 2 Geo. V. c. 50, s. 35.

36. A company, with the sanction of the council of the county having jurisdiction in the locality, may charge a higher rate of toll than is hereby authorized at any toll-gate erected at a bridge upon or connected with a road constructed by the company; and the council, in sanctioning such additional toll, may take into account the cost of the bridge, and may calculate the toll as if for so many additional miles of road as might have been constructed by the like expenditure. 2 Geo. V. c. 50, s. 36.

37. A company may erect such number of toll-gates, check-gates and side-bars in, along or across the roads and upon any other of its works, and may fix, regulate and collect such tolls, not exceeding the rates hereinbefore provided to be collected at each gate, check-gate, or side-bar, as it may deem expedient, and may from time to time alter the tolls, toll-gates, check-gates and side-bars, and may erect and maintain such toll-houses, toll-gates, check-gates, side-bars and other buildings and erections as are necessary and convenient for the due management of the business of the company. 2 Geo. V. c. 50, s. 37.

38. Where a company deems it necessary or convenient to erect a check-gate on any part of its road it shall not be entitled to toll at both the check-gate and the gate to which it acts as a check; but tickets shall be issued at the check-gate, on payment of the toll demanded, clearing the principal gate, and vice-versa; and the distance regulating the rates of toll shall not be calculated between any of the check-gates and the principal gates, but only between the principal gates. 2 Geo. V. c. 50, s. 38.

39. No gate-keeper shall be bound to give change for a larger amount than $1. 2 Geo. V. c. 50, s. 41.

40. The company may, from time to time, commute the tolls with any person whose place of abode adjoins the roads.
or is within half a mile of the gate nearest to his place of
abode on such road. 2 Geo. V. c. 50, s. 39.

41.—(1) Any person desiring to commute for a fixed
annual sum the tolls payable by him may give notice in
writing to the company requiring it to commute the tolls
payable at any toll gate or toll gates on the road, in respect
of vehicles and animals owned by or in the possession of such
person, at a gross amount per annum from the date at which
the amount of the commutation shall be settled.

(2) If such person and the company are unable to agree
upon the amount to be paid the same shall, on the applica-
tion of such person, be determined by the Judge sitting in
the Division Court of any division into which any part of the
road extends whose decision shall be final.

(3) The person making application shall give at least ten
days' written notice thereof to the company by leaving it
with the person in charge of the toll gate, or one of the toll
gates, in respect to which commutation is sought, and the
notice shall state the name of the applicant, his place of
abode, occupation and post-office address, and the time and
place of the sittings of the Division Court at which the
application will be made.

(4) The Judge shall hear the parties and take evidence on
oath, if required, and dispose of the matter in a summary
way, and shall give his decision thereon in writing to such
of the parties as shall apply for the same, and the costs of
the proceedings shall be in the discretion of the Judge, who
shall make such order in the premises as appears to him to
be just.

(5) The Judge shall have regard to:

(a) An approximate estimate of the amount of toll paid
by the applicant during the twelve months next
preceding the application, and the probable travel
for the twelve months succeeding the date of such
decision;

(b) The number of horses or other animals, and the
number and nature of the vehicles owned or used
by the applicant, in respect of which toll may be
demanded;

(c) The distance from the gate or gates at which the
property owned or occupied by the applicant is
situate;

(d) The cost of that portion of the road travelled over
by the applicant and the benefits and advantages
derived by him from the construction of such
road: and
(e) Such other considerations as may be necessary to do justice in the premises.

(6) The commutation shall be based upon the mileage rates of toll authorized by this Act, and where the distance proposed to be travelled over by the applicant is less than the whole length of the road the amount of the commutation shall be based upon the actual distance which the applicant proposes to use, and he shall be entitled for such commutation rate to use any portion of the road that may be specified in the order.

(7) The order of the Judge shall continue in force from year to year at the same rate and until rescinded upon the application of either party after the expiration of one year from the date thereof.

(8) If at any time during the currency of such order it is made to appear to the Judge that the actual user of the road by the person so commuting is so increased, or so decreased, as to render the sum fixed by such order manifestly unjust, either party may, by leave of the Judge, obtain a reconsideration of the order in the same manner as is herein provided for the original application, and, upon such reconsideration, the Judge may make such amended or other order as he deems just.

(9) Upon the production of the order fixing the amount of the commutation, and on payment of the amount named in the order, or upon payment of the amount agreed upon, as the case may be, the company shall give to the person so commuting an annual ticket or pass for the toll-gate or toll-gates in respect of which commutation has been made, and, upon the production of such ticket or pass by the person named therein, or by his servants, or a member of his family, all vehicles, horses and other animals, in respect of which toll would otherwise be payable, if owned by or in the possession of the person commuting, shall, during the period for which commutation has been made, be permitted to pass through such gate or gates without payment of toll.

(10) Any person who fraudulently transfers such ticket or pass, or who uses or attempts to use the same so as to enable vehicles, horses, or other animals, other than those mentioned in this section, to pass through any toll-gate or over any toll-road without payment of toll, shall incur a penalty of not less than $5 or more than $20.

(11) No order for commutation shall affect the right of the company to demand and enforce payment of the extra tolls authorized by clause (i) of section 34. 2 Geo. V. c. 50, s. 40.

(As to exemption from toll, see The Tolls Exemption Act, Rev. Stat. c. 209.)
42. After a road or portion of a road, bridge, or other work has been completed and tolls have been established thereon the company shall keep the same in repair. 2 Geo. V. c. 50, s. 42.

43.—(1) The Lieutenant-Governor in Council may, from time to time, designate an officer of the Public Works Department who shall be known as 'The Inspector of Toll Roads.'

(2) It shall be the duty of the Inspector to inspect any roads on which tolls are taken, whenever requested so to do by resolution of the council of any municipality in which the road, or any part of it, is situate, or upon a requisition signed by at least twenty ratepayers residing within three miles of such road, or from time to time as he may deem necessary. 2 Geo. V. c. 50, s. 43.

44.—(1) If, upon any such inspection, the Inspector is of the opinion that any such road, or portion thereof, is out of repair he shall notify the company by leaving a written notice at its office or place of business, if any, within the county wherein the road is situate, where the office or place of business is known to the Inspector, and, if not so known, then by leaving the notice with any of the keepers of the toll gates of the company.

(2) The notice shall state that the Inspector has inspected the road and found it out of repair, and shall specify the particular portion of it which he finds out of repair, and shall require the company to cause the same to be repaired within a time to be named in the notice, sufficient, in the opinion of the Inspector, for making the required repairs.

(3) At the expiration of the time limited in the notice the Inspector shall again examine the road, and if he finds it repaired in a good and efficient manner he shall so certify it, if required by the company.

(4) If he does not find it so repaired he may, in his discretion, by a permission in writing, allow further time for repairing without discontinuing the taking of tolls.

(5) If he does not think proper to grant such permission, or, if having granted it, he does not find the road properly repaired at the expiration of the time limited in such permission, then, until such repairs are completed, neither the company nor municipal council, as the case may be, shall demand or take tolls at any gate upon the road where the whole road is reported to be out of repair, or where a portion of the road only is out of repair, for passing through the nearest toll-gates on either side of such portion, under the penalty mentioned in section 47, until the Inspector has again
examined the road and certified it to be in good and efficient repair.

(6) If, upon the inspection mentioned in subsection 1, any bridge, or any portion of the road, is, in the opinion of the Inspector, in such a condition as to be dangerous to public travel, and if the company fails or refuses to put such bridge or portion of the road in repair within such time as the Inspector allows, and after notice given as provided by subsections 1 and 2, the council of the municipality in which the bridge or road is situate may, with the consent and under the direction of the Inspector, cause such bridge or portion of the road to be repaired sufficiently to remove the cause of danger, and the company, until the Inspector otherwise directs, shall not collect tolls unless it has reimbursed the municipality for the outlay made in connection with such repair.

(7) After the notice of the Inspector, and until the repairs have been completed, the company shall not, nor shall any person, destroy, take, remove, or carry away from the road any earth, stone, gravel, or other material forming any part of the road, or having been used in the construction of it, nor any toll-house, toll-gate, toll-bar, or any appendages thereto.

(8) The company, or any person, contravening any provision of subsection 7 shall incur the penalties mentioned in section 63, and the penalties when recovered shall be paid over to the treasurer of the municipality. 2 Geo. V. c. 50, s. 44.

45.—(1) The Inspector may make a special report to the Minister of Public Works that the road inspected by him is as to the whole or as to a specified portion thereof, so much out of repair as, in his opinion, to justify an order for the cesser of the right to tolls, in respect to the whole or to the portion of the road specified.

(2) After service of a copy of the report on the company, in the manner provided for the service of the notice mentioned in subsections 1 and 2 of section 44, neither the company nor any person authorized by it shall demand or take tolls at any gate upon the road, where the whole road is reported to be out of repair, or where a portion of the road only is reported to be out of repair, for passing through the nearest toll-gates on either side of such portion, under the penalty mentioned in section 47, until the Inspector has again examined the road and certified it to be in good and efficient repair. 2 Geo. V. c. 50, s. 45.

46.—(1) In case of sudden damage to or the destruction of any portion of a road, or of a bridge or culvert, caused by freshet or fire, or if the directors desire to take down any
bridge or culvert for the purpose of rebuilding the same, the Inspector, if the remaining portions of the road are in a suitable state of repair, shall allow a reasonable time for the repair of such portion of the road, or the erection or construction of such bridge or culvert, and shall give notice in writing to the company of the time so allowed; and the company may collect tolls during the time specified in the notice.

(2) Where the company is entitled to take toll under the provisions of the next preceding subsection the company, within a time to be fixed by the Inspector, shall provide a temporary passage to enable any persons travelling over the road to safely pass the portion of road, bridge or culvert so out of repair or being taken down.

(3) If the company does not erect or construct such bridge or culvert, or repair such portion of the road, within the time specified in the notice, or does not provide such temporary passage the portion of the road so damaged, or whereon the bridge or culvert so damaged or destroyed existed, shall be deemed to be out of repair, and the Inspector shall thereupon give to the company a notice in the manner provided in section 44.

(4) The notice shall state that the time fixed for the repair of the portion of the road, or of the bridge or culvert, or for the reconstruction of such bridge or culvert, or for the making of the temporary passage has expired, and that the repairs or reconstruction have not been completed, or that the temporary passage has not been made and that henceforth, until the repairs or reconstruction have been fully completed, the company shall not demand or take tolls at the gate or gates at or on either side of the portion or portions of the road, bridge or culvert so out of repair or being reconstructed, under the penalties imposed by the next succeeding section. 2 Geo. V, c. 50, s. 46.

47. If, after the expiration of the time limited in the notice or permission referred to in section 44, or the notice referred to in the next preceding section, and before the required repairs have been completed, any person, acting as a keeper of such toll-gate, demand or takes toll or refuses to allow a person travelling to pass through the toll-gates without payment thereof, he shall incur a penalty of not less than $1 or more than $4 for every such offence. 2 Geo. V, c. 50, s. 47.

ASSUMPTION OF ROAD BY COUNTY.

48. If the company permits or allows the road to remain out of repair for nine months after the time fixed by the Inspector for the repair of the same the company shall forfeit all right to the road, and the municipal council of the county, through which the road or any part thereof passes, may assume, and may enter upon and take possession of the
same, and exercise the same jurisdiction over it as the company was entitled to, and the council may repair the same in accordance with the notice of the Inspector; and, after the repairs have been made, may collect tolls thereon and shall possess and enjoy all the rights and powers and be subject to all the duties and requirements of this Act in reference to such road. 2 Geo. V. c. 50, s. 48.

49. If the council of the county does not, within the period of one month next after the expiration of such nine months, by by-law assume the road it shall become a public highway repairable as is provided by The Municipal Act. 2 Geo. V. c. 50, s. 49.

50. Nothing in this Act shall authorize the Inspector to require alteration in the grades of a road or of the materials of which a bridge is constructed unless the bridge is otherwise out of repair, except so far as may be incidentally necessary in making repairs; but this section shall not relieve the company from any obligation in respect of grades. 2 Geo. V. c. 50, s. 50.

ENFORCING REMOVAL OF SNOW.

51.—(1) Upon the written requisition made during the months of December, January, February or March by six freeholders residing within one mile of a road the engineer of the county shall inspect such road, and if he finds that, by reason of the accumulation of snow or ice thereon, the road has become so obstructed that persons cannot safely and conveniently travel thereon with horses and vehicles, and has been so obstructed for one week, he shall give notice to the company that until the snow is removed or levelled as required by such notice no toll shall be taken upon such road, or at the gates thereon specified in the notice; and thereafter no tolls shall be taken upon such road or at such gates until the engineer has given his certificate in writing that the snow has been so removed or levelled in compliance with his order.

(2) The engineer, after giving the notice, shall, when required in writing by the company, make an inspection of the road, and if he finds that his order has been complied with shall give the certificate mentioned in the next preceding subsection.

(3) The notice may be served in the manner mentioned in the Service of notice.

SALE OF ROADS UNDER EXECUTION.

52.—(1) The right and interest of a company in or to a road, or any part of it, may be sold under execution against the company.
(2) The purchaser at such sale may, at any time within two years from the time of the sale, reimburse and pay to the municipal corporation which has made any outlay for the repair and maintenance of the road or the part so purchased the amount expended by it; and thereupon the head of the council of such municipality shall give to the purchaser a certificate to that effect under his hand and the seal of the corporation.

(3) Upon the registration of the certificate in the proper registry or land titles office the road, or the part so purchased, shall become vested in and be the property of the purchaser, and the provisions of sections 48 and 49 shall thenceforth cease to apply to or in respect of the road, or the part so purchased, and the purchaser shall have the same right to collected tolls and all such other rights and privileges and be subject to the same duties and obligations in respect to the road, or the part so purchased, as if the sale had taken place before the right to collect tolls had been suspended.

(4) Unless the purchaser, within twelve months after he has paid to the municipal corporation the amount of the outlay, causes the road, or such portion as is out of repair, to be put in a proper state of repair, and procures the certificate of the Inspector that the same has been done, and thereafter keeps the road, and every portion thereof, in a proper state of repair, the purchaser shall forfeit his property in the road, or in the part thereof so purchased by him, and the same shall again become vested in the corporation of the municipality or municipalities as if this section had not been enacted. 2 Geo. V. c. 50, s. 52.

53. The next preceding section shall apply to all roads, or portions of roads, the outlay upon which was, before the 29th day of March, 1873, reimbursed and paid to the municipal corporation, as provided in subsection 2 of section 52. 2 Geo. V. c. 50, s. 53.

54. Any purchaser of a road, or any portion of a road, who has heretofore reimbursed and paid to any municipal corporation the amount of outlay, as provided by the Acts heretofore in force, and has complied with the provisions thereof, shall keep the road, and every portion thereof, in a proper state of repair, and, in case of failure to do so, shall forfeit his property in the road, or in the portion thereof so purchased by him, and the same shall again become vested in the corporation of the municipality or municipalities as if this section had not been enacted. 2 Geo. V. c. 50, s. 54.

OFFENCES AND PENALTIES.

55. Every owner, lessee, or person having control of any road or bridge upon which tolls are collected shall cause a bright red light to be displayed upon every gate or toll bar on such road whenever the gate or bar is closed, between sun-
set and sunrise, and in default shall be liable for the damages sustained by any person by reason of such default, and shall also incur a penalty of not less than $5 and not more than $20 for every such offence. 2 Geo. V. c. 50, s. 55.

56.—(1) Any lessee or collector of tolls who takes a greater toll than is authorized by law shall, for every such offence, incur a penalty of $20.

(2) The penalty shall be payable to the complainant if he is the person from whom excessive toll was taken, and where he is not the person from whom excessive toll was taken one-half of the penalty shall be payable to the complainant and one-half to such person. 2 Geo. V. c. 50, s. 56.

57. If any person, not exempted by law from paying toll, wilfully passes, or attempts to pass, any toll-gate, check-gate or side-bar lawfully established without first paying the legal toll he shall incur a penalty not exceeding $20. 2 Geo. V. c. 50, s. 57.

58.—(1) If any person, subject or liable to the payment of any toll, neglects or refuses, after demand thereof, to pay the same the person authorized to collect such toll may by himself, or taking such assistants as he thinks necessary, seize or restrain any horse, cattle, vehicle, or other thing in respect of which such toll is payable, together with their respective bridles, saddles, gear, harness or accoutrements, (except the bridle or reins of any horse or other animal separate from such horse or animal) or any vehicle in respect of the horses or animals drawing the vehicle on which such toll is payable, or any of the goods and chattels of the person so required to pay.

(2) If the toll and the reasonable charges of such seizure and distress are not paid within four days after such seizure and distress the person so seizing and restraining, after having given four days' public notice thereof, may sell the horse, animal, cattle, vehicle and things so seized and restrained, or a sufficient part thereof, returning to the owner, upon demand, the overplus, if any, and what remains unsold after such tolls and the reasonable charges occasioned by the seizure, distress and sale have been deducted. 2 Geo. V. c. 50, s. 58.

59. Any person who, after proceeding on a road with any vehicle or animal in respect of which toll is payable, turns out of the road for the purpose of avoiding the payment of toll and enters upon the road beyond any of the gates or check-gates by crossing the road or otherwise without paying toll, whereby the payment of toll is evaded, shall for every such offence incur a penalty of $4. 2 Geo. V. c. 50, s. 59.
60. Any person who, with intent to aid in the evasion of the payment of toll, knowingly permits or suffers any other person proceeding on a road to pass through any land adjoining such road and occupied by such first mentioned person, or through any gate thereon with any vehicle or animal in respect of which toll is payable, for the purpose of enabling the person so proceeding on such road to pass through such land and to enter upon such road beyond any of the gates or check-gates and to proceed thereon without paying toll, and thereby evade payment of the toll, shall incur a penalty of §4. 2 Geo. V. c. 50, s. 60.

61. Any person who leaves upon a road any vehicle or animal by reason whereof the payment of any toll is evaded or lessened, or takes off any animal from any vehicle, either before or after having passed through any toll-gate, or, after having passed through any toll-gate, adds or puts any animal to any such vehicle and draws therewith upon any part of such road so as to increase the number of animals drawing the vehicle after the same has passed through such toll-gate, whereby the payment of all or any of the tolls has been evaded, shall incur a penalty of §4. 2 Geo. V. c. 50, s. 61.

62. Any person who falsely represents himself to any toll-collector or gate-keeper as being entitled to any exemption mentioned in this or any other Act, or evades the payment of toll by any false representation or other fraudulent act, shall incur a penalty of §4. 2 Geo. V. c. 50, s. 62.

63. Any person who—

(a) Removes any earth, stone, timber or other material, used, or intended to be used, in or upon any road for the construction, maintenance or repair thereof; or

(b) Drives any loaded vehicle upon that part of any road, constructed under this or any former Act, between the stones, or hard road and the ditch, further than may be necessary in passing another vehicle, or in turning off or upon such road; or

(c) Causes any injury or damage to be done to the bridges, culverts, posts, rails or fences; or

(d) Hauls or draws upon any part of any such road any timber, stone or other thing carried principally or in part upon a vehicle so as to drag or trail upon such road to the prejudice thereof; or

(e) Leaves any vehicle upon such road without some proper person in the custody or care thereof longer than is necessary to load and unload the same, except in case of accident, and in cases of accident for any longer time than is necessary to remove the same; or
Placed any timber, stones, rubbish or other thing
upon the road to the prejudice, interruption or
danger of any person travelling thereon; or

Having blocked or stopped any vehicle in going up
a hill or rising ground causes or suffers to remain
on such road any stone or other thing with which
such vehicle was blocked or stopped; or

Pulls down, damages, injures or destroys any lamp
or lamp-post erected or placed in or near the side
of such road, or any toll-house erected on such
road, or willfully extinguishes the light of any
such lamp; or

Wilfully pulls down, breaks, injures or damages any
table of tolls put or fixed at any gate, check-gate
tolls, etc. or bar on any part of such road, or any sign-
board erected upon any road or bridge; or

Wilfully or designedly defaces or obliterates any of
the letters, figures or marks thereon or on any
finger post or mile post or stone; or

Throws any earth, rubbish or any other matter or
thing into any drain, ditch, culvert, or water-
course made for draining any such road; or

Without permission carries away any stones, gravel,
sand or other materials, dirt or soil, from any part
of such road, or digs any holes or ditches on the
allowance for the same; or

Allows any swine to run at large to
the injury of
shall incur a penalty of not less than $1 nor more than $10,
and shall in addition be liable for the damages sustained by
the company for any such act. 2 Geo. V. c. 50, s. 63.

64.—(1) No company, or contractor, or sub-contractor,
and no person employed by them or any of them, shall leave
or place upon the graded part of any road, whether it is or
is not macadamized or gravelled, any stone, gravel, timber or
other material so as to prevent the public from using or to
impede the free use of the whole of such graded portion of
the road.

(2) For every contravention of this section such company, penalties.
contractor or sub-contractor, or other person shall incur a
penalty of not less than $1 nor more than $20, and shall in
addition be liable for the damages sustained by any person
by such act. 2 Geo. V. c. 50, s. 64.

65. The penalties imposed under the authority of this Act
shall be recoverable under The Ontario Summary Convictions
Act, and unless otherwise provided, shall, when recovered,
be paid to the company. 2 Geo. V. c. 50, s. 65.
66. No action shall be brought for any thing done in pursuance of this Act unless such action is brought within six months next after the fact committed. 2 Geo. V. c. 50, s. 66.

MISCELLANEOUS.

67.—(1) Every company, in the month of January in each year, shall report to the Minister of Public Works, and also to the municipal council of the county having jurisdiction within the locality through or along the boundary of which the road passes, or wherein the other work has been constructed—

(a) The cost of the road or work;
(b) The amount of all money expended;
(c) The amount of the capital stock and how much paid in;

(d) The whole amount of tolls expended on the road or work;
(e) The amount received during the year from tolls and all other sources, stating each separately;
(f) The amount of dividends paid;

(g) The amount expended for repairs; and

(h) The amount of debts due by the company, specifying the object for which such debts were incurred.

(2) The return required by this section shall be verified by a statutory declaration of one of the directors of the company.

(3) A company which contravenes the provisions of this section shall incur a penalty of $50 for each contravention, and an additional penalty of $25 for each month during which the company neglects to make such return, recoverable by the Treasurer of Ontario by action in any court of competent jurisdiction. 2 Geo. V. c. 50, s. 67.

68.—(1) Every company shall keep regular books of account in which shall be entered a correct statement of the assets, receipts and disbursements of the company.

(2) Such books shall at all times be open to the inspection of the Inspector and of any person appointed for that purpose by the council of the municipality in which the road or part thereof is situate.

(3) The Inspector, and every person so appointed, may take copies of or extracts from the books, and may require from the keeper of such books, and also from the president and each of the directors of the company, and from all the other officers and servants thereof, all such information as to
such books and the affairs of the company generally as he may deem necessary for the full and satisfactory investigation into and report upon the affairs of the company. 2 Geo. V. c. 50, s. 68.

69. The council of a municipality through which a road runs, or the owner of any land lying adjacent to the road, may set out shade and ornamental trees along the side of the road in the same manner and with the same rights as if the road were an ordinary highway. 2 Geo. V. c. 50, s. 69.

70. The council of a municipality through which the road runs, or any person, by the permission and direction of the council, may grade, level, cut down or fill up the land along the side of the road, and may construct sidewalks thereon as if the road were an ordinary road or street. 2 Geo. V. c. 50, s. 70.

71. The council of a municipality through which any road runs, may, without being liable to make compensation to the company, make stone, wood or other crossings on the road, and may dig up the road for the purpose of making sewers, and may construct water courses across or along the side of the road, and culverts and approaches over water courses or ditches crossing or along the side of the road from streets, lanes or buildings, and may raise or lower the road or change the grade thereof when necessary to connect with other roads or streets, and shall have all other rights and privileges with regard to side-walks, culverts and approaches to the road as if the same were an ordinary highway or street; but the council shall in every such case, without unnecessary delay, replace the road in as good condition as it was before such work was undertaken. 2 Geo. V. c. 50, s. 71.

(As to obligation of municipality to repair crossings, etc., see section 461 of The Municipal Act, Rev. Stat. c. 192.)

72. The last preceding three sections of this Act shall apply to, and be held binding on, any lessee or any owners of such road, whether a joint stock company or otherwise. 2 Geo. V. c. 50, s. 72.

73.—(1) The provisions contained in section 10 to 18, 19, 22 to 26, 28 to 30, and 33 to 68 shall extend and apply to all road companies, and to all toll roads whereon tolls are levied and collected, whether such roads may have been constructed under this Act or under any former general Act relating to joint stock road companies or have been constructed by or belong to the corporation of any county, and to all toll roads which may have been purchased from the Government of the late Province of Canada and are owned or held by private companies or municipal councils, and also to all toll roads.
toll roads owned, leased, held or in the possession of any person or persons.

(2) The provisions contained in sections 12 to 18, 19, 22, 28, 32, 33, 37 to 41, and 42 to 68, and this provision, shall extend to road companies having any special charters, but no other sections of this Act shall apply to such companies. 2 Geo. V. c. 50, s. 73.

74. No new bridge over twenty feet in length shall be erected upon any road until the plans and specifications for such class of bridge shall have been approved by the Minister of Public Works. 2 Geo. V. c. 50, s. 74.

PART II.

PURCHASE AND EXPROPRIATION.

75. In this Part,

(a) "Owner" shall include any person, company or municipal corporation having any legal, equitable or other estate or interest in a toll road;

(b) "Road" shall mean a toll road, and shall include any land or easement in any land and any toll house or other building thereon used for the purposes of the road, and the franchise of the owner of the road and any bridge, pier or wharf connected therewith. 2 Geo. V. c. 50, s. 75.

76. Where a road lies wholly within a township the council of the township, and where a road lies wholly within one or more local municipalities in the same county, the council of the county may pass a by-law for the purchase or expropriation of the road, and if the council and the owner of the road are unable to agree as to the price or compensation to be paid for the road the same shall be determined by arbitration under The Municipal Act. 2 Geo. V. c. 50, s. 76.

77.—(1) Where a road lies partly in one or more local municipalities in a county and partly in a city, separated town, or in one or more local municipalities in another county, or where a road lies wholly within the county and a city or separated town therein or a city, separated town or township in an adjoining county is by reason of heavy travel over the road thereto or therefrom interested in the purchase of the road and the abolition of the tolls, the council of the first mentioned county may pass a by-law for the purchase or expropriation of such road, and if the council of the initiating county and the owner of the road are unable to agree as to the prices or compensation to be paid therefor the same shall be determined by arbitration under The Municipal Act.
(2) Where the council of the initiating county and the council of the city, separated town or township or other county are unable to agree as to the proportions of the price or compensation to be paid by them respectively the same shall be determined by arbitration under The Municipal Act, c. 192.

(3) If, in the case of the acquisition of a road lying wholly within the initiating county, the arbitrators are of the opinion that the city, separated town or township is not, by reason of heavy travel thereto or therefrom over the road, interested in the purchase of the road and the abolition of the tolls they shall not award that any part of the price or compensation be paid by the corporation of the city, separated town or township. 2 Geo. V. c. 50, s. 77.

78. If the owner of the road is a corporation it may, with the consent of a general meeting of the shareholders called for the purpose, agree with the council as to the price to be paid for the road and the terms of payment, or appoint an arbitrator to determine the compensation to be paid. 2 Geo. V. c. 50, s. 78.

79. In the case of expropriation, except as herein otherwise provided, the provisions of The Municipal Act as to compensation for lands taken or injured shall apply. 2 Geo. V. c. 50, s. 79.

80. In the cases provided for by section 76, if the road is not taken and paid for within one year after the publication of the award, the expropriating by-law shall be deemed to be repealed, and the corporation, by the council of which it was passed, shall pay to the owner of the road his costs of and incidental to the arbitration and award, including the arbitrators' fees, if they have been paid by him. 2 Geo. V. c. 50, s. 80.

81. In the cases provided for by section 77 if the council of the initiating county, within one year after the publication of the award, elect that the road shall not be taken the corporation shall pay to the owner of the road his costs of and incidental to the arbitration and award, including the arbitrators' fees, if they have been paid by him. 2 Geo. V. c. 50, s. 81.

82. The council of a corporation which has purchased or expropriated a road, under the provisions of sections 76 or 77, may pass a by-law for borrowing the amount required to pay the purchase or compensation money for any period not exceeding 30 years, and it shall not be necessary that the by-law shall be submitted for or receive the assent of the electors. 2 Geo. V. c. 50, s. 82.
83. The council of the initiating county and of the city, separated town, township or other county, in case the road has been purchased or expropriated under the provisions of subsection 1 of section 77, may respectively pass by-laws for borrowing the amount required to pay the corporation's share of the purchase or compensation money for any period not exceeding 30 years, and it shall not be necessary that any such by-law shall be submitted for or receive the assent of the electors. 2 Geo. V. c. 50, s. 83.

84. Where the corporation of a county which has purchased or expropriated a road under the provisions of this Part, or which is liable, under the provisions of section 77, to pay a part of the purchase or compensation money to be paid for a road purchased or expropriated under the provisions of that section, is of opinion that any local municipality in the county is not materially or is only slightly benefited by the acquisition of the road or the abolition of the tolls thereon, the corporation of the county may pay to the corporation of such local municipality such sum by way of bonus as the council may deem sufficient to equalize the burden imposed on it by the acquisition of the road, or in the alternative where the road is situated in but one or in a small number of the municipalities in the county, or where some of the municipalities are not, in the opinion of the council, interested in the acquisition of the road or the abolition of the tolls thereon, such council may by the by-law apportion the indebtedness to be created by the by-law between the local municipalities in the county as the council may deem just, and may provide that the portion of the indebtedness to be borne by each of the municipalities, as so apportioned, and the interest thereon, shall be provided for by a special rate on the rateable property in such municipality, or the council may, in its discretion, equalize the burden by granting a bonus to any such municipality as the council may deem best. 2 Geo. V. c. 50, s. 84.

85. Where the council determines to grant a bonus to a municipality under the provisions of the next preceding section the council may provide that the amount of the bonus shall be added to the sum to be borrowed to pay the purchase or compensation money or the portion of it which the county is to pay in the cases provided for by section 83. 2 Geo. V. c. 50, s. 85.

86. The clerk of the county council shall, on or before the 31st day of December in each year, transmit to the clerk of each local municipality a written statement of the amount to be levied by it during the next ensuing year for the purpose of providing the amount necessary to meet the annual payments provided for by the by-law, and the council of such municipality shall levy the amount accordingly and
pay over the same when collected to the treasurer of the county. 2 Geo. V. c. 50, s. 86.

ABOLITION OF TOLLS.

87. Subject to the provisions of the next following section, generally.

where a road is acquired by a corporation, under the provisions of this Part, the road shall thereafter be free of toll and shall be a common and public highway, and shall be kept in repair by the corporation. 2 Geo. V. c. 50, s. 87.

88. The council of the county or of the township, which has acquired the road, may defer the abolition of tolls for a period of not more than ten years, and may, during that time, apply the proceeds of the tolls towards the payment of the debentures issued under the authority of this Part, and in the case of a township the road shall be kept in repair by the corporation of the township, and in the case of a county shall be kept in repair by the local municipalities in the county in which the road is situate, or by such of them as the council of the county shall, by by-law, determine and prescribe. 2 Geo. V. c. 50, s. 88.

89. Where a road is owned by the corporation of a township within which it is situate the council of the township shall, within three months after the receipt of a petition signed by 50 municipal electors, requiring it so to do, pass a by-law fixing a date not later than ten years from the passing of the by-law, upon which the collection of tolls shall cease. 2 Geo. V. c. 50, s. 89.

90. The council may, before the passing of the by-law, submit it, or the question of passing such a by-law, for the assent of the electors, and, if their assent is not obtained, the council shall not be bound to pass the by-law. 2 Geo. V. c. 50, s. 90.

91. Where a by-law has been passed, under the provisions of the next preceding two sections, all tolls thereafter collected shall be paid over monthly to the treasurer of the municipality, and shall be applied to the maintenance of roads within the municipality as the council may by by-law direct. 2 Geo. V. c. 50, s. 91.

92.—(1) When a road has been acquired by a county, under the provisions of this Part, and the tolls thereon have been removed, tolls shall not be collected from any part of the road which lies within the limits of a city or separated town, and thereafter the road, so far as it lies within the county, shall be under the jurisdiction of the county council within the meaning of The Municipal Act.
(2) The corporation of any town, not separated from the county, township or village within the county may, with the consent of the corporation of the county, purchase, take over or otherwise acquire such road or the part of it lying within or adjoining such town, township or village, and may provide for the payment of the purchase money out of the general funds of the corporation; and the road so acquired shall be a common and public highway and shall be kept in repair by the corporation of the municipality by which it is acquired. 2 Geo. V. c. 50, s. 92.